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Commonwealth of Pennsylvania.

UNIV. OF MICH.
MAY 23 1907

VETOES

BY THE GOVERNOR, OF BILLS PASSED BY THE LEGISLATURE, SESSION OF 1903.

WM. STANLEY RAY,
STATE PRINTER OF PENNSYLVANIA.
1903.

VETOES.

BILLS RETURNED TO THE LEGISLATURE BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, DURING ITS REGULAR SESSION, ENDING APRIL 16, A. D. 1903.

No. 1.

AN ACT

Authorizing the several boroughs of this Commonwealth to sell and convey all such lands as have been granted to them by the Commonwealth for the purpose of providing a public water supply, where such lands have ceased to be useful for such purpose.

Section 1. Be it enacted, &c., That whenever any lands which have been granted by this Commonwealth to any borough of this Commonwealth, for the purpose of providing a public water supply for the inhabitants of such borough, shall for any reason have become useless for such purpose, any such borough shall have power and authority, by action of the town council, to sell and dispose of any such lands at public sale, and to convey title thereto to the purchaser or purchasers thereof, in fee simple.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, February 25, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 10, entitled "An act authorizing the several boroughs of this Commonwealth to sell and convey all such lands as have been granted to them by the Commonwealth for the purpose of providing a public water supply, where such lands have ceased to be useful for such purpose."

This is a bill enacting that whenever any lands which have been granted by the Commonwealth to a borough for the purpose of providing for a water supply "shall for any reason have become useless for such purpose," the borough shall have power to sell them

at public sale and convey a title to the purchaser. There is no means provided by which it may be ascertained whether or not the lands have become useless for the purpose intended. Since the Commonwealth was the grantor, and perhaps the donor, it would seem to have an interest in the determination of that question, and should be consulted. Nor does the act provide in any way for a disposition of the moneys which may be received for the lands. Since the act only refers to cases where there has been a grant for a specific purpose, and the grant is therefore in the nature of a special trust, no doubt it was intended that these moneys should go to the Commonwealth; but there is no provision to that effect. There cannot be many cases to be covered by the act, but in all of them the deeds of grant must have defined, with more or less exactness, the terms of the trust upon which the original grants were made. It is impossible to determine in advance whether questions of construction would not arise, and there seems to be no good reason why in all such cases the Commonwealth should assent by a general act to an interference with the dispositions so made.

SAML. W. PENNYPACKER.

No. 2.

A FURTHER SUPPLEMENT

To a further supplement, approved the fourteenth day of April, one thousand eight hundred and forty, to the act, entitled "An act to enable the Governor to appoint notaries public, and for other purposes therein mentioned," passed the fifth day of March, one thousand seven hundred and ninety-one.

Section 1. Be it enacted, &c., That so much of the further supplement, approved the fourteenth day of April, one thousand eight hundred and forty, to the act, entitled "An act to enable the Governor to appoint notaries public, and for other purposes therein mentioned," passed the fifth day of March, one thousand seven hundred and ninety-one, as renders justices of the peace, aldermen, or magistrates, ineligible to the office of notary public, be and the same is hereby repealed: Provided, however, That justices of the peace, aldermen, or magistrates shall have no jurisdiction in cases arising on notes, checks, or any paper by them as notaries public protested.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 9, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 29, entitled "A further supplement to a further supplement approved the fourteenth day of April, one thousand eight hundred and forty, to the act, entitled 'An act to enable the Governor to appoint

notaries public and for other purposes therein mentioned,' passed the fifth day of March, one thousand seven hundred and ninety-one."

The act of 1840 provides: "No person * * * exercising any judicial office in this Commonwealth * * * shall at the same time hold, exercise or enjoy the office of notary public." The present bill seeks to repeal so much of the said act "as renders justices of the peace, aldermen or magistrates ineligible to the office of notary public." It further seeks to overcome the difficulty which the act of 1840 was intended to prevent by means of a proviso to the effect "that justices of the peace, aldermen or magistrates shall have no jurisdiction in cases arising on notes, checks or any paper by them as notaries public protested."

It is contrary to the general policy of the law that one man should hold two distinct offices and especially where the duties of these offices may lead to conflict. It is very doubtful whether it would be wise while giving a magistrate jurisdiction up to a certain amount to enact that this jurisdiction shall not extend to certain cases arising within it. Whether or not these objections be well founded, it is entirely clear that the provisions of this bill, should it become a law, may lead to serious trouble. It may well be that in some localities there is but a single magistrate. He holds his office not for his own benefit, but for the good of the public and every man who has a cause within his jurisdiction is entitled to have it tried before him. If then the suitor holds a note which has been protested before this magistrate, acting as a notary public, he is deprived of his right to appear in court and have his case tried, or at least put to the inconvenience of going to another locality, an inconvenience which ought not to be imposed upon him.

For these reasons I withhold my approval from this bill.

SAML. W. PENNYPACKER.

No. 3.

AN ACT

Making it unlawful for any person or persons to advertise, by or in any circular, pamphlet, card, handbill, book, newspaper, or written or printed notice of any kind, offering any kind of service or aid to procure or aid in procuring any divorce, or the severance, dissolution or annulment of any marriage, or offering to engage, appear or act as attorney or counsel in any suit for alimony or divorce, or the severance, dissolution or annulment of any marriage, either in this State or elsewhere, and providing a penalty therefor.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall not be lawful for any person or persons to advertise, by or in any circular, pamphlet, card, handbill, book, newspaper, or written or printed notice of any kind, offering any kind of service or aid to procure or aid in procuring any divorce, or the severance, dissolution or annulment of any marriage, or offering to engage, appear or act as attorney or counsel in any suit for

alimony or divorce, or the severance, dissolution or annulment of any marriage, either in this State or elsewhere, shall be guilty of a misdemeanor, and shall upon conviction thereof be sentenced to pay a fine not exceeding five hundred dollars, and to undergo an imprisonment not exceeding one year, or either, or both, at the discretion of the court.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 9, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 35, entitled "An act making it unlawful for any person or persons to advertise by or in any circular, pamphlet, card, handbill, book, newspaper or written or printed notice of any kind offering any kind of service or aid to procure or aid in procuring any divorce or the severance, dissolution or annulment of any marriage or offering to engage, appear or act as attorney or counsel in any suit for alimony or divorce or the severance, dissolution or annulment of any marriage either in this State or elsewhere and providing a penalty therefor."

This bill makes it a misdemeanor to advertise offering any kind of service or aid in procuring any divorce or the severance or dissolution of any marriage, or offering to engage, appear or act as attorney or counsel in and suit for alimony or divorce, and imposes a fine not exceeding $500 and imprisonment not exceeding one year, at the discretion of the court. The bill further makes it a misdemeanor to advertise by any written notices offering such service.

The law provides that for certain causes the marriage tie may be dissolved. It is universally recognized that it is almost impossible for the ordinary layman to appear in court and present his own case and do it with skill and success for the reason that he is without the necessary training and information. Counsel have come to be the necessary adjunct of suits at law. The service such as given by counsel is, therefore, a necessary service. It is difficult to draw a distinction between a written or printed offer and a verbal offer of such service and it also difficult to understand how, if divorces be in themselves lawful, the offer to render aid in securing the divorce, provided it be proper aid, can be unlawful. It is true that to advertise publicly is unprofessional and not to be commended, but it is not essentially a crime and not such an offense against morals and propriety as to render the offender subject to imprisonment. If the client be entitled, under the law, to a divorce, there seems to be no good reason why he or she should not be entitled to the service of an attorney and should not be entitled to have such service tendered. To prevent such tender may be not so much a suppression of the zeal of the attorney as an interference with the rights of the client. In a certain sense when an attorney puts a sign containing his professional designation on the door of his office, it is an offer to render service in suit in divorce.

If our morals are to be improved in this respect by legislation, it must be by making more stringent the laws allowing divorces and not by the effort to make criminal that which is only incidental to the system.

If this bill were directed against all professional advertising, it could at least be said that it made no unjust discrimination.

SAML. W. PENNYPACKER.

No. 4.

AN ACT

Requiring justices of the peace and aldermen to file, with the prothonotary of the proper county, transcripts of proceedings in suits brought before them against boroughs, townships and school districts; directing prothonotaries to keep a record of such transcripts; providing for the payment by such municipalities of the fees of said officials for the performance of said duties; making the neglect of such duty by justices and aldermen a misdemeanor, and fixing the penalty therefor.

Section 1. Be it enacted, &c., That hereafter it shall be the duty of every justice of the peace and alderman in this Commonwealth, within one week after the rendition by him of a judgment against any borough, township or school district of this Commonwealth, to file with the prothonotary of the county in which such municipality is located, a full and complete transcript of the proceedings and judgment before him in such case, including a statement of the costs taxed against or chargeable to the defendant municipality.

Section 2. That, immediately upon the receipt of such transcript by the prothonotary of such county, he shall enter it of record in a book, kept by him in his office for that purpose, to be called the "Record of Suits before Justices and Aldermen against Boroughs, Townships and School Districts;" setting forth, therein, the name of the plaintiff, the name of the defendant municipality, the sum for which judgment was rendered, the date of its rendition, the amount of the costs, and the name of the justice or alderman by whom the judgment was given.

Section 3. That for making and filing such transcript, the justice or alderman performing such duty, shall receive the sum of fifty cents; and for entering the same of record, the prothonotary shall receive the sum of fifty cents; and in every instance the municipality, against which the suit was brought, shall be liable to the justice, alderman and prothonotary for the aforesaid fees.

Section 4. Any justice of the peace or alderman who shall refuse or neglect to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine not exceeding one hundred dollars, or an imprisonment not exceeding three months, or both, at the discretion of the court.

Section 5. All laws or parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 16, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 23, entitled "An act requiring justices of the peace and aldermen to file, with the prothonotary of the proper county, transcripts of proceedings in suits brought before them against boroughs, townships and school districts; directing prothonotaries to keep a record of such transcripts; providing for the payment by such municipalities of the fees of said officials for the performance of said duties; making the neglect of such duty by justices and aldermen a misdemeanor, and fixing the penalty thereor."

The purpose of this bill is to make it the duty of every justice of the peace and alderman within one week after a judgment has been rendered by him against any borough, township or school district to file with the prothonotary a full and complete transcript of the proceedings. This purpose is entirely proper and save that perhaps a week is too short a time ordinarily, the main object of the bill is one which ought to meet with approval.

It contains, however, in section four a provision that any justice of the peace or alderman who shall refuse or neglect to comply with the provisions of the act shall be deemed guilty of a misdemeanor and on conviction be sentenced to pay a fine not exceeding $100, or an imprisonment not exceeding three months, or both, at the discretion of the court. This provision seems to be one entirely unreasonable and not to be commended. A justice of the peace is a judicial officer, representing the majesty of the law, selected by the people to see that the law is enforced, and ought not to be treated as a criminal, and it ought not to be suggested in anything so serious as an act of Assembly that he may be a criminal. If he fails in the performance of his duty, there are remedies already provided by law. There may be many reasons why a transcript could not be filed within a week. The serious illness of a justice, the destruction by fire of his docket, and many other unforseen occurrences might prevent it, but objection is put upon the broader ground that the failure to perform such a ministerial duty is not in itself essentially a crime and ought not to be so treated. To threaten with imprisonment a judicial officer is at the outset to invite disrespect, both for him and for his office. Moreover no provision has been made to arrange for the trial of the causes during the time the magistrate is in prison.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 5.

AN ACT

To empower any taxpayer of any township, borough, school, or poor district, upon providing for costs, to appeal, in behalf of such municipality, to the courts of common pleas of the proper county from the judgment of any justice of the peace or alderman against such municipality, and to become a party to such suit.

Section 1. Be it enacted, &c., That in all cases where a judgment shall be rendered by any justice of the peace or alderman against any township, borough, school, or poor district of this Commonwealth, in which by existing laws the right of appeal is given such municipality, any taxpayer of such township, borough, or school district may, upon leave first granted by the court of common pleas of of the proper county, or a law judge thereof at chambers, for cause shown, take an appeal in behalf of such municipality from such judgment, to the court of common pleas of the proper county, within the time prescribed by law for taking such appeals, if for a period of ten days immediately after the rendition of the judgment the proper municipal officials neglect or refuse to take and perfect such appeal, and file the same in said court: Provided, That such taxpayer shall, in taking the appeal, make an affidavit that the same is not for delay, but because he, she or it verily believes injustice has been done, and shall pay the costs of the appeal, and enter good and sufficient bail for the payment, on the affirmance of the judgment, of all other costs before the justice or alderman, and all the costs in the court of common pleas.

Section 2. That upon filing the said appeal in the court of common pleas of the proper county, the said taxpayer shall be made a party to the suit, and shall have the right to defend such municipality therein.

Section 3. All laws or parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 16, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 113, entitled "An act to empower any taxpayer of any township, borough, school or poor district, upon providing for costs, to appeal, in behalf of such municipality, to the courts of common pleas of the proper county from the judgment of any justice of the peace or alderman against such municipality, and to become a party to such suit."

The purpose of this bill is to enable any taxpayer of any township, borough, school or poor district to appeal from the judgment of a justice of the peace or alderman against it upon payment of the costs or the entry of security for their payment in the event that the proper officials fail to appeal within ten days and leave is given

by the court. It appears from section two that the bill assumes that such judgment can only be rendered by the magistrate when the municipality is the defendant in the suit, but this is a mistaken view. The judgment may just as well be given against it when the municipality is the plaintiff, as when it is the defendant. In the cases in which the municipalities are the plaintiffs, there is no provision for making the taxpayer, who may appeal, an intervening party.

Apart from this oversight, the bill is wrong in principle. It takes the determination of the question of the propriety of appealing away from the officials, where it belongs, and who have been selected by the people, and gives it to a taxpayer, no matter how irresponsible he may be. There may be the best of reasons known to the officials and unknown to him for not taking an appeal. If it be a judgment to pay money they may know from the contract in their possession that the amount is due. There may be good reason for believing that upon an appeal, the judgment would be for a larger amount. In that event, they and not he would have to provide for its payment. Other taxpayers are interested in the determination of the suit, and they are represented by the officials they have chosen for the purpose. Without their consent and without consultation with them, he is permitted to interfere in a way which may require them to pay an increased sum. It is wrong, too, because it assumes a failure of duty on the part of the officials and exceptional public zeal on the part of some unascertained individual. The presumptions are all just the reverse. If in fact the officials are inefficient and slothful, there are remedies by mandamus and by suit on their official bonds. It would be a mistake to transfer their duties to some stranger against whom no such remedies exist.

After the lapse of ten days they might conclude to appeal and then there would be a probable conflict as to who should conduct the cause and perhaps the municipality be made to suffer.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 6.

AN ACT

Authorizing the county commissioners, in counties containing more than five hundred thousand inhabitants, to appoint election officers, including election judges, inspectors and assessors, in all cases of vacancy from any cause, and ru lating the procedure in such cases.

Section 1. Be it enacted, &c., That in all election divisions, in counties of this Commonwealth which now or may hereafter contain more than five hundred thousand inhabitants, where a vacancy exists, by reason of the death, resignation, disqualification, removal

from the division, or by the creation of new divisions, or other cause, in an election board heretofore elected or appointed, including the judge of election, majority or minority inspectors of election, and the assessor of election, the county commissioners of said county, upon proof furnished that such vacancy or vacancies exist, shall, at any time before any general, municipal, or special election, appoint competent persons, who shall be of good character and qualified electors, actually resident in the division where the vacancy occurs, to fill said vacancy or vacancies, to conduct the election in said districts; and in the appointment of inspectors in any election division, both shall not be of the same political party, and the judge of election shall in all cases be of the political party the head of whose ticket received the majority of votes in said district at the last election; and in case of the disagreement of the county commissioners as to the selection of inspectors, the political majority of the commissioners shall select one of such inspectors, and the minority commissioner or commissioners select the other. The decision of the county commissioners as to the fact of the vacancy, and the necessity and propriety of the appointment, and all matters touching the same, shall be final and conclusive, and not subject to any right of appeal or review in any court; the true intent and meaning hereof being that the county commissioners shall have exclusive and final jurisdiction in all such cases.

Section 2. All acts or parts of acts general, special or local inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 16, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 109, entitled "An act authorizing the county commissioners, in counties containing more than five hundred thousand inhabitants, to appoint election officers, including election judges, inspectors and assessors, in all cases of vacancy from any cause, and regulating the procedure in such cases."

The purpose of this bill is to transfer in counties containing more than five hundred thousand inhabitants the appointment of election officers in cases of vacancies from the judges of the courts of common pleas to the county commissioners. A careful examination of the bill leads me to the conclusion that as to some of its features at least, it is contrary to the provisions of the Constitution. Article five, section one of that instrument vests the judicial power in the Supreme Court, the courts of common pleas and such other courts as may from time to time be established. The Legislature cannot divest the court of common pleas of its jurisdiction under the Constitution.

The vacancies intended to be provided for in this bill are such as arise "by reason of the death, resignation, disqualification, removal from the division * * or other cause." Under these circumstances, "the decision of the county commissioners as to the fact of

the vacancy and the necessity and propriety of the appointment, and all the matters touching the same shall be final and conclusive, and not subject to any right of appeal or review in any court, the true intent and meaning hereof being that the county commissioners shall have exclusive and final jurisdiction in all such cases." The commissioners are, therefore, finally to determine what constitutes a "disqualification" to hold the office. In reaching a determination upon this question, they are to take testimony and weigh its effect. Under section one, proof is to be furnished that such vacancy exists. Their conclusion as to "all the matters touching the same" is to be final. It is quite clear that as to this subject, the bill, if it became a law, would give the commissioners the powers of a court, and one of last resort, and would lessen the jurisdiction of the court of common pleas, and is, therefore, in violation of the Constitution.

The power of appointment is not a judicial function and could be given to the county commissioners, but the wisdom of such a course is at least doubtful. The present system has endured for many years and in the main has given satisfaction. There is a certain practical convenience in having the same body which determines the existence of the vacancy to fill it by appointment. During the long period through which the judges of the common pleas have acted upon these vacancies, a body of precedents have been established which make easy the course to be pursued. The system is now uniform throughout the State and there are disadvantages in having one plan pursued in two cities and a different plan throughout the rest of the State. The Commissioners are selected to perform certain practical duties, the erection of buildings and bridges, the purchase and distribution of supplies, and it may well be questioned whether the imposition upon them of a duty so different from their usual pursuits as the appointment of election officers would be to the public advantage or meet with public approval.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 7.

AN ACT

Making it lawful for the cities of the second class of this Commonwealth, and authorizing and empowering said cities, to purchase and hold land, not included within the corporate limits of the said cities, but being wholly within the county in which said city or cities may be situate, for the purpose of erecting and maintaining thereon hospitals for the treatment of contagious and infectious diseases.

Section 1. Be it enacted, &c., That it shall be lawful for the cities of the second class of this Commonwealth, and they are hereby authorized and empowered, to purchase and hold land, not included within the corporate limits of the said cities, but being wholly within the county in which said city or cities may be situate, for the purpose of erecting and maintaining thereon hospitals for the treatment of contagious and infectious diseases.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 20, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 121, entitled "An act making it lawful for the cities of the second class of this Commonwealth and authorizing and empowering said cities to purchase and hold land not included within the corporate limits of the said cities but being wholly within the county in which said city or cities may be situate for the purpose of erecting and maintaining thereon hospitals for the treatment of contagious and infectious diseases."

This bill is not approved for the reason that House bill No. 61, upon the same subject and in precisely the same language, has already been approved.

SAML. W. PENNYPACKER.

No. 8.

AN ACT

Granting pension to George S. Granger, a private of Company "A," Ninth regiment, National Guard of Pennsylvania, who was disabled by sunstroke while in the line of his duty, at or near Belmont Mansion, West Philadelphia, on or about the month of July, Anno Domini one thousand eight hundred and eighty, and providing for the payment thereof.

Whereas, George S. Granger was a private of company "A," Ninth Regiment of the National Guard of Pennsylvania, and while employed in the line of his duty, at or near Belmont Mansion, West Philadelphia, was stricken with sunstroke, and by reason thereof has become permanently disabled and unable to perform any manual labor; and,

Whereas, The said George S. Granger is in destitute circumstances:

Section 1. Be it enacted, &c., That a pension of twelve dollars per month be paid to George S. Granger during the term of his life, commencing on the first day of May, Anno Domini one thousand nine hundred and three, and the said pension shall be paid by the State Treasurer every three months.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 20, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 219, entitled "An act granting pension to George S. Granger a private of company A, Ninth Regiment National Guard of Penn-

sylvania who was disabled by sunstroke while in the line of his duty at or near Belmont Mansion, West Philadelphia on or about the month of July, Anno Domini one thousand eight hundred and eighty and providing for payment thereof."

The object of this bill is to grant a pension to a private of the National Guard of the State, who was stricken with sunstroke while on duty and disabled. However, meritorious may be the circumstances of this case, the bill is open to the objection that it is special pension legislation. There are probably many others who have suffered like, or even greater hardships. If they are not to be provided for, it would seem to be an unjust discrimination against them. If pensions are to be granted to disabled members of the guard, it ought to be by a general act which would define the service and determine for what injuries and disabilites the pensions should be granted and what the sums to be paid.

SAML. W. PENNYPACKER.

No. 9.

AN ACT

To amend section eight of the act approved the thirteenth day of April, eighteen hundred forty-three, entitled "An act to convey certain real estate, and for other purposes," by extending the provisions thereof so as to enable the guardian or committee of lunatic husbands to bring and maintain actions for divorce.

Section 1. Be it enacted, &c., That section eight of an act, entitled "An act to convey certain real estate and for other purposes," which read as follows:

"That in cases where the wife is lunatic or non compos mentis, the courts of common pleas of this Commonwealth are invested with authority to receive a petition or libel for a divorce, which may be exhibited by any relative or next friend of the wife; and the affidavit required by the act concerning divorces may be made in the manner required by the act by such relative or next friend; and all the provisions of the several acts relating to divorces shall apply to all applications made under the directions of this section: Provided, That the fact of the lunacy of the wife and such circumstances as may be sufficient to satisfy the mind of the court as to the truth of the allegation, shall be set forth in the petition; and upon the hearing of the case before the court or upon an issue to be tried by the jury, the question of lunacy with every other matter of fact that is affirmed by one party and denied by the other, shall be heard and investigated in the manner prescribed by the provisions of the several acts concerning divorces," be and the same is hereby amended to read as follows:

That in cases where the wife or the husband is lunatic or non compos mentis, the courts of common pleas of this Commonwealth are invested with authority to receive a petition or libel for a divorce, which may be exhibited by any relative or next friend of the

wife, or by the guardian or committee of the husband; and the affidavit required by the act concerning divorces may be made, in the manner required by the act, by such relative or next friend, or by such guardian or committee; and all the provisions of the several acts relating to divorces shall apply to all applications made under the directions of this section: Provided, That the fact of the lunacy of the wife or husband, and such circumstances as may be sufficient to satisfy the mind of the court as to the truth of the allegations, shall be set forth in the petition; and upon the hearing of the case before the court, or upon an issue to be tried by the jury, the question of lunacy, with every other matter of fact that is affirmed by one party and denied by the other, shall be heard and investigated in the manner prescribed by the provisions of the several acts concerning divorces.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 20, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 179, entitled "An act to amend section eight of the act approved the thirteenth day of April, eighteen hundred and forty-three, entitled 'An act to convey certain real estate and for other purposes by extending the provisions thereof so as to enable the guardian or committee of lunatic husbands to bring and maintain actions for divorce."

The purpose of this bill is to enable the guardian or committee of a husband who is a lunatic or non compos mentis to file a petition in the court of common pleas and prosecute proceedings to secure a divorce. Should it become a law, it would be a further relaxation of our legislation with respect to the state of marriage. The marriage tie leads to the most intimate of the personal relations. It cannot be assumed without the personal consent of the parties themselves and it ought not to be dissolved without such consent. We cannot conceive that any one would ever propose that a committee could make such a contract in behalf of the lunatic, and it is equally difficult to understand upon what principle he should be permitted to dissolve it for the reason that he in no sense is a party to it, and unable to weigh the motives, impulses and considerations which led to it. Lunacy is not necessarily permanent. Like other human diseases, it is often curable and frequently the result of temporary conditions. Any undue pressure upon brain or nerve may lead to imperfect thinking. The lunatic upon recovery may awaken from his mental disturbance to find that, without his knowledge or consent, his wife whose attentions may be both grateful and necessary, has been taken away from him by a committee. One of the grounds for divorce is adultery. Under the law adultery is always open to condonation. This bill would take away from the person most interested the opportunity for condonation. Another ground for divorce is desertion. While no excuse for desertion, the lunacy may have led to it, and the recovery may bring about a cessation of the

delinquency. The husband may be prevented from forgivng his erring wife by the intervention of the committee.

It is true that there is already upon the statute book a similar act, but a repeal of that act would be wiser than an extension of its principle.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 10.

AN ACT

To provide that certain army nurses shall be eligible to receive State aid or pensions; to provide for proof of eligibility; and to provide for the amount of such pension, and the manner and time of payment of the same.

Section 1. Be it enacted, &c., That women who served not less than three months as nurses in the army hospitals of the United States, between the nineteenth day of April in the year one thousand eight hundred and sixty-one, and the first day of September in the year one thousand eight hundred and sixty-five, and who for five consecutive years prior to the date of the application for aid shall have been actually resident within this Commonwealth, and who are or may be disabled, wholly or partly, from earning a livelihood, shall be placed upon a list of invalid pensioners of this State; and be entitled to receive, for the highest rate of disability, twelve dollars per month, and for a less inferior disability, an amount proporionate to that fixed for the highest disability; the pension to commence at the date of proof of disability; such pension to be granted only on evidence first reported to, and found satisfactory by, the Auditor General, that the service was actually rendered and that justice and necessity required the granting of such pension.

Section 2. That on proof being made to his satisfaction, as aforesaid, the Auditor General shall, in each case, fix the amount of said pension; make a certificate, in duplicate, to the State Treasurer, under his hand and seal of office; one of which shall be given to that officer, and the other to the party entitled to receive the money; in which certificate he shall set forth the names of the parties entitled to receive the said pension, the amount thereof, and the time for and during which such amount is to be paid; which amount shall then be paid by the State Treasurer on the said certificate. The said pension shall be payable, thereafter, semiannually, at the State Treasury.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 21, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 220, entitled "An act to provide that certain army nurses shall

be eligible to receive State aid or pensions to provide for proof of eligibility and to provide for the amount of such pension and the manner and time of payment of the same."

The purpose of this bill is to provide pensions for women who served as nurses during the war of the rebellion "in the army hospitals of the United States," who have lived for five years in this State, and who are wholly or in part disabled. The disability may be only partial and, therefore, slight. It may have been in no way the result of the service. The service was not given to this State, but to the United States. There seems to be no reason for a distinction between men nurses and women nurses, and no reason for a discrimination in favor of those women who served in the hospitals as against those who did the more arduous, if more temporary, work upon the field after the battles. The bill does not confine its benefits to women of this State, who were nurses during the war. They may have been residents of other states and may have confined their beneficient attentions to the soldiers of those states. Provided they have lived for five years in this State, they may be residents in other states at the time of the application.

Section 65 of article III of the Constitution provides that no appropriations "except for pensions or gratuities for military services" shall be made for benevolent purposes.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 11.

AN ACT

Making valid certain elections of municipal corporations, held under an act, entitled "An act to regulate the manner of increasing the indebtedness of municipalities, et cetera," approved twentieth April, one thousand eight hundred and seventy-four, as amended.

Section 1. Be it enacted, &c., That all elections heretofore held by any county, city, borough, township, school-district, or other municipality or incorporated district, within this Commonwealth, to increase its indebtedness under the provisions of an act, entitled "An act to regulate the manner of increasing the indebtedness of municipalities, to provide for the redemption of the same, and to impose penalties for the illegal increase thereof," approved twentieth April, one thousand eight hundred and seventy-four and acts amendatory thereof and supplemental thereto, where the necessary majority of votes was cast at such election in favor of the increase of indebtedness, be and the same are hereby ratified, confirmed, and made valid, notwithstanding any defect in the time or manner of calling such election, or any defect in the form of ballot, or in the mode of conducting such election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 25, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 272, entitled "An act making valid certain elections of municipal corporations held under an act, entitled 'An act to regulate the manner of increasing the indebtedness of municipalities, et cetera,' approved twentieth April, one thousand eight hundred and seventy-four as amended."

The purpose of this bill is to ratify and confirm all elections heretofore held in any county, city, borough, township, school district or other municipality for the purpose of increasing its indebtedness, "notwithstanding any defect in the time or manner of calling such election or any defect in the form of ballot or in the mode of conducting such election."

It is impossible to determine what would be the effect of the bill if it were to become a law. There are some defects in the manner in which elections are held which are entirely formal. There are others which are vital and fundamental. The bill proposes to cure them all without regard to what may be their importance or consequence. Legislation which may lead to unforseen consequences is to be avoided if possible. Rather than to take such chances it is better that the expense of another election should be incurred and the trouble incident to it be taken. Such difficulties can always be avoided by ascertaining in the first place what is the law, and carelessness is always encouraged and increased by holding out the thought that after all the consequences may not follow and the missteps may be easily corrected.

It must be presumed that the provisions of the law with respect to such elections were enacted for some good purpose. They ought not to be repealed after the event has occurred which they were intended to prevent.

SAML. W. PENNYPACKER.

No. 12.

AN ACT

Authorizing commissioners of public parks, within the cities of this Commonwealth, to purchase, acquire, enter upon, take, use, and appropriate private property, adjoining any public park, for park purposes, wherever in their opinion such private property shall be necessary for the preservation of the purity of the water supply or for the health and enjoyment of the people.

Section 1. Be it enacted, &c., That it shall be lawful for, and the right is hereby conferred upon, commissioners of public parks, within the cities of this Commonwealth, to purchase, acquire, enter upon, take, use, and appropriate, for public park purposes, private property, adjoining and bounding property already used for park purposes, within the corporate limits of the cities in which the park or parks are located, where, in the opinion of said commissioners, the

land taken shall be for the preservation of the purity of the water supply or for the health or enjoyment of the people.

Section 2. In exercising the power aforesaid, all proceedings for ascertaining damages, and assessing the benefits incident thereto, shall be in accordance with the law authorizing cities of this Commonwealth to acquire, by purchase or otherwise, private property for public park purposes.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 26, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 62, entitled "An act authorizing commissioners of public parks within the cities of this Commonwealth to purchase, acquire, enter upon, take, use and appropriate private property adjoining any public park for park purposes wherever in their opinion such private property shall be necessary for the preservation of the purity of the water supply or for the health and enjoyment of the people."

The bill confers upon commissioners of parks within the cities of the Commonwealth, the right to appropriate private property adjoining and bounding property already used for park purposes where, in the opinion of the commissioners, the land taken shall be for the "preservation of the purity of the water supply or for the health or enjoyment of the people."

A bill of this kind with proper limitation and restrictions and reasonable in the extent of its grant of power would probably be unobjectionable. It may be questioned whether the park commissioners are exactly the body to be charged with the duty of preserving the purity of the water supply, and there are doubtless many inland parks which have no possible relation to this supply. Any land which could be taken would, in a sense, add to the "enjoyment of the people," and, therefore, these words impose no limitation upon the discretion of the commissioners. The main objection, however, is to the extent of the grant. The commissioners are authorized to take any and all private property which bounds upon that "already used for park purposes." This grant would enable them in time to take all of the private property in the city.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 13.

AN ACT

Granting a pension to Thomas W. Young, of Manor township, Armstrong county, Pennsylvania, late of company "H," Fifty-fourth regiment, Pennsylvania Volunteer Infantry, "Emergency Men of one thousand eight hundred and sixty-three."

Whereas, Thomas W. Young, a private in company "H," Fifty-fourth regiment, Pennsylvania Volunteer Infantry, "Emergency

men of one thousand eight hundred and sixty-three," mustered into the service of the State of Pennsylvania June twenty-ninth, Anno Domini one thousand eight hundred and sixty-three, and served in such capacity until August seventeenth, Anno Domini one thousand eight hundred and sixty-three;

And whereas, By reason of advanced age, a fracture of both arms, and disease of the stomach, he is incapacitated for the performance of manual labor, and having no property is devoid of means of support;

And whereas, By reason of the length of the term of his service, no pension can be granted him under the existing laws of the United States; therefore,

Section 1. Be it enacted, &c., That the State Treasurer is hereby directed to pay, out of any moneys appropriated for the payments of pensions, or out of any moneys in the Treasury not otherwise appropriated, to the said Thomas W. Young, of Manor township, Armstrong county, Pennsylvania, a monthly pension, during life, of twelve dollars, commencing on January first, Anno Domini one thousand nine hundred and three.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 188, entitled "An act granting a pension to Thomas W. Young, of Manor township, Armstrong county, Pennsylvania, late of company "H," Fifty-fourth regiment, Pennsylvania Volunteer Infantry, 'Emergency men of one thousand eight hundred and sixty-three.' "

The granting of pensions to emergency men, militia and members of the National Guard where the cases are meritorious, like that of the present applicant, would certainly be generous and perhaps not unwise, but if the Commonwealth is to grant such pensions it ought to provide a system by which the facts can be ascertained and there can be a proper determination of the amounts which ought to be paid. To give to one deserving claimant and withhold from another is an unjust discrimination and presents the appearance of favoritism. It is also not in accord with the spirit of our Constitution, which frowns upon special legislation.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 14.

AN ACT

Granting a pension to Charles Huyett, a private in company I, Twentieth regiment, Pennsylvania Volunteer Militia.

Whereas, A private of company I, commanded by Captain F. S. Boas, in the Twentieth regiment, Pennsylvania Volunteer Militia,

called out by the proclamation of Governor Andrew G. Curtin, September fifth, one thousand eight hundred and sixty-two, with his company and regiment on the railroad train from Carlisle to Harrisburg, Pennsylvania, in consequence of a collision of cars his left foot was badly injured; he also suffers from a rupture, rendering him unfit for manual labor; therefore,

Section 1. Be it enacted, &c., That the State Treasurer be and is hereby directed to place the name of the said Charles Huyett on the list of pensioners, at the rate of eight ($8.00) dollars per month, commencing from the date of the passage of this act, to continue during his natural life.

Section 2. That the State Military Board is hereby directed to examine the claim of the said Charles Huyett of the Twentieth regiment, Pennsylvania Volunteer Militia; and, if the State Military Board finds the claim herein stated to be true and correct, the said board shall so certify to the Auditor General, who shall issue warrants for the same, and it shall be paid out of any moneys in the State Treasury not otherwise appropriated.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 258, entitled "An act granting a pension to Charles Huyett a private in company I, Twentieth regiment, Pennsylvania Volunteer Militia."

For the reasons which are set forth in the message accompanying House bill No. 188, this bill does not meet with my approval.

SAML. W. PENNYPACKER.

No. 15.

AN ACT

Granting a pension to Charles H. Knox, of Philadelphia, Philadelphia county, Pennsylvania, late of Independent regiment, Pennsylvania Volunteer Cavalry, "Emergency Men of one thousand eight hundred and sixty-three."

Whereas, Charles H. Knox, a private in Independent regiment, Pennsylvania Volunteer Cavalry, "Emergency Men of one thousand eight hundred and sixty-three," mustered into the service of the State of Pennsylvania July second, Anno Domini one thousand eight hundred and sixty-three, and served in such capacity until September sixteenth, Anno Domini one thousand eight hundred and sixty-three;

And whereas, By reason of advanced age and nearly total loss of eyesight, he is nearly incapacitated for the performance of manual labor, and having no property is devoid of means of support;

And whereas, By reason of the length of the term of his service, no pension can be granted him under the existing laws of the United States; therefore,

Section 1. Be it enacted, &c., That the State Treasurer is hereby directed to pay out of any moneys appropriated for the payments of pensions, or out of any moneys in the Treasury not otherwise appropriated, to the said Charles H. Knox, of Philadelphia county, State of Pennsylvania, a monthly pension, during life, of twelve dollars, commencing on January first, Anno Domini one thousand nine hundred and three.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 259, entitled "An act granting a pension to Charles H. Knox, of Philadelphia, Philadelphia county, Pennsylvania, late of Independent regiment, Pennsylvania Volunteer Cavalry, "Emergency Men of one thousand eight hundred and sixty-three.' "

For the reasons which are set forth in the message accompanying House bill No. 188, this bill does not meet with my approval.

SAML. W. PENNYPACKER.

No. 16.

AN ACT

To further amend clause one of the thirty-first section of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, as amended by an act approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and eighty-seven; authorizing and providing the manner of reconstructing or rebuilding old bridges, and legalizing those heretofore reconstructed or rebuilt.

Section 1. Be it enacted, &c., That clause one of the thirty-first section of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, as amended by an act approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and eighty-seven, which clause as amended reads as follows:

"That before the directors of any such corporation shall proceed to build any such bridge or ferry, it shall be lawful for them to contract with the owner or owners of any land, for the purchase of so much thereof as shall be necessary for the purpose of erecting and completing said bridge or ferry, and making all the necessary works and causeways to and from the same, if they can agree with the said

owner or owners; but in case they cannot agree, proceedings shall be had as provided in section forty-one of this act. The said bridge or ferry shall be constructed as not to interfere with the free navigation of said creek or river," be and the same is hereby amended to read as follows:

That before the directors of any such corporation shall proceed to build any such bridge or ferry, it shall be lawful for them to contract with the owner or owners of any land, for the purchase of so much thereof as shall be necessary for the purpose of erecting and completing said bridge or ferry, and making all the necessary works and causeways to and from the same, if they can agree with the said owner or owners; but, in case they cannot agree, proceedings shall be had as provided in section forty-one of this act. The said bridge or ferry shall be so constructed as not to interfere with the free navigation of said creek or river: Provided, That when any bridge, which heretofore has been or hereafter shall be erected, built or reconstructed under the provisions of the act to which this is a supplement or amendment, has been or shall be in fact the reconstruction, erection or rebuilding of an old bridge, in existence at the date of the passage of the act to which this is an amendment or supplement, which had theretofore occupied substantially the same location, and the old bridge had the same or less clearance height above water, with the same or more piers in the water than the new or reconstructed bridge, such newly reconstructed or rebuilt bridge shall not constitute or be any interference with the free navigation of the river or stream over which it is built; and such reconstructed bridge is hereby authorized and approved.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 263, entitled "An act to further amend clause one of the thirty-first section of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four as amended by an act approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and eighty-seven authorizing and providing the manner of reconstructing or rebuilding old bridges and legalizing those heretofore reconstructed or rebuilt."

It is plain that the proviso in the amendment is intended to apply to the case of a bridge which has been heretofore erected and that it is, therefore, in fact special legislation. In construing the proviso, however, we must regard it as though it were what it purports to be—general legislation. The provision is that when a bridge shall be in fact a re-construction of an old bridge, occupying substantially the same location with a like clearance and height above the water and the old bridge had "the same or more piers in the water," then the re-constructed bridge shall not "constitute or be

any interference with the free navigation of the river or stream." The old bridge may have had the same number of piers or may even have had more piers and still the new piers, if in a different location in the river or stream, may be an interference with navigation though the piers of the old bridge would not constitute such interference. That is, it is entirely possible that the new piers may be within the channel and the old piers may have been outside of it. It is entirely safe to leave the whole matter under the law as it is at present for the determination of the courts. If, as the proviso describes, the new bridge is in fact a reconstruction of the old bridge, which existed before the passage of the act, and if the old bridge was provided for by law, it is not likely that the court would hold that the new bridge is an illegal interference.

SAML. W. PENNYPACKER.

No. 17.

AN ACT

Authorizing corporations incorporated under the laws of any other State of the United States, for manufacturing goods, wares and merchandise made wholly or in part of rubber, gutta-percha or other fibrous or plastic materials, or for manufacturing cement from slag and other materials, or for the manufacture of petroleum or its products into articles of use and commerce, to erect and maintain buildings for such manufacturing purposes and for offices and salesrooms, and to purchase, have and hold real estate, within this Commonwealth, necessary and proper for such manufacturing purposes and for offices and salesrooms.

Section 1. Be it enacted, &c., That it shall and may be lawful for corporations incorporated under the laws of any other State of the United States, for the manufacture of goods, wares and merchandise made wholly or in part of rubber, gutta-percha or other fibrous or plastic materials, or for the manufacture of cement from slag and other materials, or for the manufacture of petroleum or its products into articles of use and commerce, to erect and maintain buildings for such manufacturing purposes, and for offices and salesrooms, or either or both, within this Commonwealth, and to purchase, have and hold real estate within this Commonwealth, not exceeding one hundred and fifty acres, necessary and proper for such manufacturing purposes and for offices and salesrooms, or either or both, and to mortgage, lease or convey the same or any part thereof: Provided, That nothing herein contained shall be deemed to prevent or relieve any real estate purchased and held by any such foreign manufacturing corporations, under the provisions of this act, from being taxed in like manner with other real estate within this Commonwealth: And provided further, That no such foreign manufacturing corporations shall be entitled to employ any greater amount of capital in any such business in this State than the same kind of corporations organized under the laws of this State are entitled to employ: And provided further, That all such foreign manufacturing corporations, doing business as aforesaid in this Com-

monwealth, shall be liable to taxation to an amount not exceeding that imposed on corporations organized for similar purposes under the laws of this State, and every such foreign corporation, taking the benefit of this act, shall make the returns to the Auditor General that are now required by law from corporations of this State.

Section 2. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed .

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 12, entitled "An act authorizing corporations incorporated under the laws of any other State of the United States, for manufacturing goods, wares and merchandise made wholly or in part of rubber, gutta-percha or other fibrous or plastic materials, or for the manufacture of petroleum or its products into articles of use and commerce, to erect and maintain buildings for such manufacturing purposes and for offices and salesrooms, and to purchase, have and hold real estate, within this Commonwealth, necessary and proper for such manufacturing purposes and for offices and salesrooms."

This bill proposes to give to certain corporations incorporated in others of the states substantially the same powers which they would have had if they had been incorporated in this State. They may erect and maintain buildings for manufacturing purposes and for offices and salesrooms, and may purchase and hold real estate within this Commonwealth to the extent of one hundred and fifty acres.

Ever since the passage of the act of 1874 it has been the custom among some of the residents of this State to evade the provisions of the act by securing incorporation in other States where the requirements are less strict, and where it may not be necessary to pay any proportion of the capital into the treasury in cash. This bill would give to such corporation practically the same privileges as others, which have, in good faith, complied with our laws. Among the corporations it proposes to favor are those" for the manufacture of petroleum or its products into articles of use and commerce." Petroleum is to a great extent a product of this State, and such encouragement as can be given by legislation ought to be given to corporations engaged in its production chartered by our own State. It seems to me to be unwise to give further encouragement to those who may seek for foreign charters and also unwise to relieve them from the disadvantages which they may have brought upon themselves.

SAML. W. PENNYPACKER.

No. 18.

AN ACT

Amending clause four of section twenty-nine, of section one of an act, entitled "An act conferring upon certain fidelity, insurance, safety deposit, trust and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto," approved the twenty-seventh day of June, Anno Domini one thousand eight hundred and ninety-five; pamphlet laws three hundred and ninety-nine.

Section 1. Be it enacted, &c., That clause four of section twenty-nine, of section one of an act, entitled "An act conferring upon certain fidelity, insurance, safety deposit, trust and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-nine, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto," approved the twenty-seventh day of June, Anno Domini one thousand eight hundred ninety-five, pamphlet laws three hundred ninety-nine, which reads as follows:

"Clause 4. That whenever any court shall appoint said companies assignees, receiver, guardian, executor, administrator, or to execute any trust whatever, the said court may in its discretion or upon the application of any person interested, appoint a suitable person to investigate the affairs and management of the company so appointed, who shall report to such court the manner in which its investments are made and the security afforded to those by or for whom its engagements are held, and the expense of such investigation shall be defrayed by the said company; or the court may, if deemed necessary, examine the officers of said company under oath or affirmation as to the security aforesaid," be and the same is hereby amended so as to be and read as follows:

Clause 4. That whenever any court shall appoint any such company assignee, receiver, guardian, executor, administrator, or to execute any trust whatever, the said court may, in its discretion or upon the application of any person interested, issue under its seal a mandate to the Banking Commissioner of Pennsylvania, directing him to forward to said court a certified copy of the last report of such institution filed in his office; which said certified copy shall be filed at the number and term of said court at which such company shall have been approved by said court to act in such capacity; or, the said court may, in its discretion or upon the application of any person interested, issue under the seal of said court a mandate to the Banking Commissioner, requiring him or one of the bank examiners of the State of Pennsylvania to investigate the affairs and management of the company so appointed or approved, who shall report to said court the manner in which its investments are made, and the security afforded to those by and for whom its engagements are held, which said report shall be filed of record as hereinbefore provided; and the expense of such investigation, or certified copy of

the last report so filed in the office of the Banking Commissioner of the State, and hereby required to be furnished to said court, shall be defrayed by the company so examined or reported upon: Provided, however, That the fees or charges against such company, for such certified copy from the Banking Commissioner's office, shall not exceed the sum of one dollar for the first page, and fifty cents for each additional page: And provided further, That the expense of such special examination, as herein authorized to be required by said court, shall not exceed the compensation now allowed by law to the Banking Department for examination and report upon such institution: And provided further, That no other persons shall be appointed or permitted to make such examinations.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 27, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return, herewith, without my approval, House bill No. 183, entitled "An act amending clause four of section twenty-nine of section one of an act, entitled 'An act conferring upon certain fidelity insurance, safety deposit, trust savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four and of the supplements thereto,' approved the twenty-seventh day of June, Anno Domini one thousand eight hundred and ninety-five, pamphlet laws three hundred and ninety-nine."

This bill is wrong in principle. While leaving with the corporations therein described the large powers and benefits given to them by the act of June 27, 1895, it seeks to remove the obligations which are imposed upon them by that act. Clause four of section twenty-nine of the act of 1895, provides that when any court shall appoint these companies to execute trusts the court may, in its discretion, investigate the affairs and management of the company so appointed and may if deemed necessary, examine the officers under oath or affirmation. These are entirely proper powers, the exercise of which may be safely left with the court. Whenever the court appoints a receiver or a trustee, it ought to have the right of visitation and the power of investigation. It is very doubtful whether the courts would uphold an act which in a sense imposes upon them a duty and at the same time limits their power of performing that duty effectively.

It is true that this bill endeavors to substitute for the power of investigation by the court another source of information, and directs the court to issue a mandate to the Banking Commissioner requiring him to forward to the court a copy of the last report made to the Banking Commissioner by the corporation. It is plain, however, that this report is an imperfect substitute for an examination of the officers of the company under oath or affirmation. That re-

port is after all only the statement of some official connected with the corporation and much closer and more careful scrutiny may at times be required. The present system may upon occasion impose burden and expense upon the corporation, but where rights and benefits so extensive are conferred, this burden ought to be borne cheerfully. The power may well be left where it now rests to be exercised in the discretion of the courts.

SAML. W. PENNYPACKER.

No. 19.

AN ACT

Authorizing county commissioners, in counties having a population of less than one hundred and fifty thousand, to borrow money for the current expenses of the county, and regulating the manner of borrowing.

Section 1. Be it enacted, &c., That it shall be lawful for the county commissioners, in counties having a population of less than one hundred and fifty thousand, to borrow money, on the note of the county, to pay the current expenses of said county, whenever the funds in the hands of the county treasurer, available for such purposes, shall be insufficient in amount to pay said expenses, whether such deficit is due to unusual outlays, to an insufficient tax levy, or to delay in collecting the taxes due: Provided, however, That the total amount so borrowed in any year, shall not exceed fifty per centum of the total amount of taxes received by said county, for county purposes, in the year immediately preceding.

Section 2. Before securing such loans, the county commissioners shall submit to the court of quarter sessions of said county, or to the president judge of said court in chambers, a statement, setting forth the amount of such proposed loan, the purpose for which the money is to be used, and the necessity for said loan, which may then be approved by said court, or said judge in chambers; and said statement, with the order of the court approving said proposed loan, shall be filed in the office of the clerk of said court.

Section 3. No such loan or loans shall be made for a longer period than one year, and it shall be the duty of said county commissioners to provide for the payment thereof within said period, by levying and collecting a proper tax therefor.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 28, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 275, entitled "An act authorizing county commissioners in counties having a population of less than one hundred and fifty thousand to borrow money for the current expenses of the county and regulating the manner of borrowing."

This bill proposes to permit county commissioners in order to pay the current expenses of the county to borrow a sum of money upon the note of the county equal to fifty per cent. of the taxes received during the year immediately preceding. It is an innovation to suggest that the county should issue commercial paper. There is no official of the county who is charged with any such duty as that of giving promissory notes and there is no specific provision in the bill directing who is to sign the notes in the name of the county. Presumably it is intended that the county commissioners shall issue the notes since they are to borrow the money, but it is not so directed. One of the objects of the bill is to provide funds to pay the current expenses when there has been "delay in collecting the taxes due." In order to meet the notes, it is directed that it shall be the duty of the county commissioners to provide for their payment "by levying and collecting a proper tax." Would it not be better to collect the tax about which there has been delay rather than to provide a new tax about the collection of which there might perhaps also be delay. Moreover the policy of permitting counties to issue promises to pay in order to meet their current expenses is of very doubtful wisdom.

For these reasons the bill is not approved.

SAMUEL W. PENNYPACKER.

No. 20.

A SUPPLEMENT.

To the act relating to proceedings in case of married women becoming insane, approved October twenty-eight, one thousand eight hundred and fifty-one; and providing a method of superceding the action of the court had under said act, when such insane married woman is restored to reason.

Section 1. Be it enacted, &c., That when proceedings have been had, under the provisions of the seventh section of an act, approved October twenty-eighth, Anno Domini one thousand eight hundred and fifty-one, relating to insane married women, and the husband has given security to the satisfaction of the court in which such proceedings have been held; and the report about the mental condition of such married woman and the security aforesaid have been filed in such court; and the husband shall, under the provisions of the act aforesaid, transacted business relating to the management of such insane married woman; it shall be lawful for the court in which such proceedings have been had, on petition of the husband, representing his wife who was the subject of such proceeding, accompanied by affidavits of two or more persons—who know, live near to, and have recently seen and conversed with her—that she is restored to a sound state of mind, to appoint two discreet and intelligent persons, one of whom shall be a practicing physician, who shall make a personal examination, or otherwise, of the alleged mental restoration of such married woman, and report thereon to the court; and if the court shall be satisfied such married woman is restored

to a sound state of mind, it shall make an order suspending or altogether superseding any authority of her husband to transact any business relating to the management of such married woman's real or personal estate, under the proceedings therefor had under the provisions of the act to which this act is a supplement. But such suspending or superseding order shall not affect or invalidate any previous lawful acts of the husband, under the original proceedings relating to the management or disposition of the real or personal estate of his wife aforesaid.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 28, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 241, entitled "A supplement to the act relating to proceedings in case of married women becoming insane approved October twenty-eight, one thousand eight hundred and fifty-one, and providing a method of superseding the action of the court had under said act when such insane married woman is restored to reason."

The purpose of this bill is commendable, but the bill is so inartifically constructed that it ought not to become a law. The act of October 23, 1851, provides a plan by which the husband of an insane woman may, under the direction of the court, conduct the management of her estate. This bill seeks upon the restoration of the woman to mental health to remove her disabilities. It recites that when "the husband shall under the provisions of the act aforesaid transacted business relating to the management of such insane married woman." The word "have" is omitted before "transacted" and the act to which this bill is intended to be a supplement does not relate to the management of the insane married woman, but to the management of her estate. The bill proceeds to direct that on petition to the court by the husband "accompanied by affidavits or two or more persons who live near to and have recently seen and conversed with her that she is restored to a sound state of mind" there shall be an investigation. In other words before there has been a determination of the subject of inquiry two persons are required to swear that "she is restored to a sound state of mind." They are to make this affidavit for the reason that they "know, live near to and have recently seen and conversed with her." This means of information may enable them to entertain an opinion or express judgment, but would not enable them to swear to a fact. Thereupon the court is directed "to appoint two discreet and intelligent persons one of whom shall be a practicing physician who shall make a personal examination or otherwise of the alleged mental restoration of such married woman" and report. It is difficult to understand just what is the force of the words "or otherwise" in connection with the personal examination, and it is further difficult to understand how there can be an examination of the "alleged mental restoration." After the investigation, if the court shall be satisfied that the married woman is restored to a sound state of mind "it

shall make an order suspending or altogether superseding" the authority of the husband. If it be found that the woman is restored to a sound state of mind, it would seem that the court ought to supersede and not suspend the power over her estate given to the husband.

The present appears to be a good opportunity for calling attention to the fact that as a general rule it is not well by legislation to direct a court to make an order. Under the Constitution, the courts are a branch of the government, not subject to the direction of the Legislature or the Executive. The making of orders and decrees is within their discretion. Where the power is wanting, it may within the limits of the Constitution be given by the Legislature, but it is generally sufficient to vest them with the authority to make orders and decrees and to leave the exercise of the power to their discretion.

SAML. W. PENNYPACKER.

No. 21.

AN ACT

Authorizing the ascertainment, award, levy, assessment, and collection of the costs, damages, and expenses of municipal improvements, including the opening, widening, straightening, extending, grading, paving, macadamizing, curbing, or otherwise improving, of streets, lanes, alleys, or parts thereof, completed or in course of completion; providing for the ascertainment, levy and collection of damages and benefits therefor from property peculiarly benefited, where, under existing laws or ordinances, private property could not be assessed for special benefits, and constituting such benefits a lien upon the properties upon which they are assessed; and authorizing the completion of such improvements now in progress.

Section 1. Be it enacted, &c., That whenever heretofore any municipal corporation of the State has, by act or act, ordinance or ordinances, resolution or resolutions, contract or contracts, opened, widened, extended, straightened, graded, paved, curbed, macadamized, or otherwise improved, any street, lane or alley, or part thereof, and in effecting such improvement has taken, injured or destroyed private property, or furnished materials and labor, or incurred expense, and properties in the neighborhood have been by such improvement peculiarly and specially benefited; but, owing to the act or acts of Assembly, under authority of which any or all of the ordinances, resolutions or contracts for said improvements, either in its entirety or any part thereof, were passed or made, having subsequently been declared unconstitutional; or is, or are, otherwise invalid; or where for any reason private property cannot be assessed for peculiar special benefits; now, by this act, such improvements are made valid and binding; and such municipality of the State is hereby authorized to ascertain, award, levy, assess and collect the damages, costs and expenses of such improvement, in manner following, to wit:

First. Said municipality of the State, or any person or persons interested, may at any time after such work or labor has been done,

or materials furnished, property taken, or damage done, present its, her, his or their petition in any court of common pleas of the proper county, setting forth briefly the character of such improvement, and that the cost, expenses and damages incurred have not been collected or fully paid to said municipality, and praying the court to appoint three disinterested freeholders to ascertain and determine the cost, damages and expenses of said improvement, and any damages done to private property by reason thereof, and to fairly and ratably assess the said damages, costs and expenses upon the property benefited, and to make report thereof to the court.

Second. Upon the presentation of such petition, the court shall direct notice thereof to be given to all parties interested, by an advertisement inserted at least three times in one or more newspapers published in the county in which the municipality is situate, one of which newspapers may be printed in the German language, and by at least ten handbills, posted ten days before the hearing in conspicuous places along the line of the improvement and the vicinity thereof, that on a certain day, therein to be named and not less than ten days after the last insertion of the advertisement in the newspapers, the court will pass upon and decide said application, and that any person interested therein may be heard in reference thereto.

Third. Upon said named day the court shall, unless some good objection is made thereto, appoint three disinterested freeholders as viewers. Any two of said viewers may decide all questions, and in all respects have all the powers, discretion and jurisdiction of all three viewers; but all three viewers shall act, unless in case of sickness or other unavoidable cause; and in case of a vacancy, the court may appoint a substitute at any time before the first meeting of the viewers.

Fourth. Upon said appointment being made, said viewers shall be sworn or affirmed, by some person authorized to administer oaths, well and truly to perform the duties imposed upon them, and true report to make to the court.

Fifth. It shall be the duty of said viewers, after being sworn or affirmed, to fix a day, hour and place, when and where they will hear all parties in interest; of which meeting notice shall be given, by at least three insertions, in the newspapers designated in the second clause of section one of this act, and by at least ten handbills, posted in conspicuous places along the line of improvement and in the vicinity thereof; the last of said insertions and the posting of said handbills shall be at least ten days before the meeting. Ten days' notice of the time and place of said meeting shall also be given to persons owning property along the line of such improvement, resident in such municipality, by personal service of a copy of said notice or by leaving the same at the residence of such owner, with an adult member of his family, and making known the contents thereof. The viewers shall visit the improvement, and personally inspect the same and the properties in the neighborhood supposed to be damaged or benefited thereby. At the time and place fixed, they shall hear all parties interested and their witnesses, with power to adjourn from time to time; and after a full hearing on all questions before them, they or any two of them shall ascertain and determine

the damages to each property, for property taken, injured or destroyed by such improvement, and award such damages to each particular property; they shall also ascertain and determine the total damages, costs and expenses of such improvement, and these damages, costs and expenses they shall equitable and fairly assess upon the properties benefited, which assessment shall not exceed the benefit peculiarly resulting to each property from the improvement; and the total assessment of benefits shall in no case exceed the total damages, costs and expenses of the improvement.

If property peculiarly benefited to the extent of the total damages, costs and expenses cannot be found, the viewers shall assess such excess of damages, costs and expenses, over and above peculiar benefits, upon the municipality under whose authority the improvement was effected, and the same shall be paid out of its treasury. The viewers shall thereupon prepare a report, together with a plan of the properties damaged and benefited, and in said report shall set forth the character of the improvement, the total amount of the damages, costs and expenses thereof, a schedule of the damages awarded to and the benefits assessed upon each particular property, with the name or names of the owner or reputed owner of each parcel; and what amount, if any, damages, costs and expenses, not assessed as peculiar benefits to private property, is assessed upon the municipality.

Sixth. Said viewers shall then give notice, by three insertion in the same newspapers as already designated, that their report is ready, and that on a day certain, therein to be named, and not earlier than ten days after the last insertion, they will present the same to the court; that in the meantime said report will remain at a place to be designated in said notice, subject to inspection and exception.

If any exceptions are filed, the viewers shall afford the exceptants a hearing on the same, and make such changes and modifications in their report as justice and equity may require.

Seventh. On the day named, if no exceptions are filed, or, if exception be filed, upon a subsequent day to be fixed by them, the viewers or any two of them shall file their report in the proper court of common pleas; and thereupon the said court shall confirm the same nisi, and, unless exceptions be filed within thirty days, the report shall be confirmed absolutely, subject to appeals pending. When said report is filed, notice thereof shall be given by one publication in the newspapers already designated. Said notice shall state the date of filing of the report, and shall contain a schedule of the damages and benefits as shown therein, and shall further state that unless exceptions be filed thereto within thirty days from the date of filing the said report will be confirmed absolutely, subject to appeals pending. The said court shall have power to confirm said report; to modify, change, or otherwise correct the same, or the assessments made therein; or refer the report back to the same or new viewers, with like power as to any new or further report. Within thirty days after said report is filed in court, any party interested may file exceptions to the same; or, within said period of thirty days, the said municipality or any party whose property is taken, injured or destroyed by said improvement, may appeal and demand a trial by jury, according to the course of common law.

Eighth. When the court has made its final decree, confirming the said report or fixing the amount of the assessments in each case, the sums thus ascertained as benefits shall, if properly filed as a municipal lien or sued within six months, be a lien upon the property assessed, and shall be due and payable to the treasurer of the proper municipality within thirty days from the date of said decree; and the clerk of the proper court, on the making of such decree, shall deliver to said treasurer a certified copy of the decree and report.

Said assessment shall bear interest beginning at the expiration of thirty days from the date of said decree. If not paid within said time, the said treasurer shall deliver the same to the city solicitor, or the attorney of said municipality, who shall proceed to collect the same by an action of assumpsit or by filing a lien therefor, under the general laws of the Commonwealth in such case made and provided, and proceeding thereon to collect the same.

Ninth. All the costs of the proceedings, including advertisements, handbills and costs of service, shall be paid by the proper municipality; and any excess of damages, costs and expenses, over and above the benefits as determined by the final decree of the court, shall also be paid out of the treasury of the proper municipality.

Tenth. Proceedings under this act shall be confined to the ascertainment, award, assessment, levy and collection of damages, benefits, expenses and costs of effecting improvements, in which private property has been entered upon and actually, physically, appropriated to public use, or injured or destroyed, or contract made, materials furnished and work and labor done, within five years prior to the date of approval of this act. Power is hereby given to the municipalities of the State to compel such improvements now in course of completion, and upon such completion to proceed, as aforesaid, for the award, assessment, levy and collection of damages and benefits caused thereby.

Eleventh. If upon any appeal or trial, in the case of any person or persons whose property has been taken, injured or destroyed, the result shall be that the appellant or appellants recovers or recover less damages for property taken, injured or destroyed than he, or she or they, was or were awarded by the viewers, from which award said appeal was, or appeals were, taken; then the court may thereupon order and compel the municipality to repay to the several property owners, assessed for benefits, their ratable proportion of so much of said assessments as were made by reason of said excess of damages.

Twelfth. This act shall in no event be construed as depriving any person of a right of trial by jury, where such a right has been conferred by the Constitution of this State, but such right shall be demanded in the time fixed by the seventh clause of section one of this act.

Thirteenth. Any party interested in any assessment of benefits or award of damages may appeal to the Superior Court or the Supreme Court, as the pending controversy may warrant: Provided, That such appeal be taken within one year from the date of final judgment, but such appeal shall not be a supersedeas, unless taken within thirty days after such judgment.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 1, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 301, entitled "An act authorizing the ascertainment, award, levy, assessment and collection of the costs, damages and expenses of municipal improvements including the opening, widening, straightening, extending, grading, paving, macadamizing, curbing or otherwise improving of streets, lanes, alleys or parts thereof completed or in course of completion, providing for the ascertainment, levy and collection of damages and benefits therefor from property peculiarly benefited where under existing laws or ordinances private property could not be assessed for special benefits and constituting such benefits a lien upon the properties upon which they are assessed and authorizing the completion of such improvements now in progress."

Article three, section forty-eight of the Constitution provides "No bill except general appropriation bills shall be passed containing more than one subject, which shall be clearly expressed in its title." The main purpose of the present bill appears from section one to be to provide that where heretofore municipal corporations have improved streets, lanes or alleys under acts of Assembly which have been declared unconstitutional, "such improvements are made valid and binding." The bill then proceeds to prescribe means by which the benefits conferred by such improvements can be collected from the property owners by the municipalities. It is questionable whether the taking of property by methods which were unconstitutional can thereafter be made valid and binding, at least to the extent directed by this bill, but at all events there is no suggestion in the title of the act as required by the Constitution of this main purpose of the bill.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 22.

AN ACT

To authorize railroad corporations of this Commonwealth to sell, transfer and convey a part or parts of its railroad, and the franchises, rights, privileges, rights of way and property pertaining to such part or parts, to any other railroad corporation of this Commonwealth, whose railroad connects with such part or parts.

Section 1. Be it enacted, &c., That it shall be lawful for any railroad corporation of this Commonwealth, whether created or organized under general or special law, to sell, transfer and convey a part or parts of its railroad, and the franchises, rights, privileges, rights of way and property pertaining to such part or parts, to any

other railroad corporation of this Commonwealth, whether created or organized under special or general law, having a railroad connecting with such part or parts.

Section 2. Such sale, transfer and conveyance shall be effected upon the conditions and in the manner hereinafter stated, namely:

One. The corporations shall, pursuant to resolution duly adopted by the directors of each, make and execute, under their respective corporate seals, duly attested, an agreement providing for such sale, transfer and conveyance, specifying all essential details, terms, stipulations and conditions thereof, with a map of the part or parts of the railroad to be sold, transferred and conveyed thereunto, annexed and made part thereof.

Two. Said agreement shall be submitted for approval or disapproval to the stockholders of each corporation, at separate meetings, either annual or special, duly convened; and if such agreement shall be approved by a majority of the stockholders of each corporation, present or represented at such meeting, that fact shall be certified by the secretary of each corporation, under its corporate seal, and a copy of the agreement, with said certificates attached, shall be filed in the office of the Secretary of the Commonwealth; and immediately upon the filing thereof, such part or parts of such railroad, together with all the franchises, rights, privileges, rights of way and property pertaining to such part or parts, shall become the property of the railroad company to which the same shall thus be sold, transferred and conveyed, and shall be held, possessed and used by such railroad corporation, with all the franchises, rights, privileges and powers conferred by, and under and subject to all the restrictions contained in, the general or special law under which said corporation was created or organized.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 3, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 273, entitled "An act to authorize any railroad corporation of this Commonwealth to sell transfer and convey a part or parts of its railroad and the franchises, rights, privileges, rights of way and property pertaining to such part or parts to any other railroad corporation of this Commonwealth whose railroad connects with such part or parts."

The purpose of this bill is to enable any railroad corporation to convey "a part or parts of its railroad" and the franchises to any other railroad "having a railroad connecting with such part or parts." There is no attempt to define what shall constitute a part. There was once a man who was cut into pieces. One piece consisted of a fragment of his finger nail, the other piece was the rest of his body. Article seventeen, section four of the Constitution provides "no railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation shall consolidate the stock, property or franchises of such corporation, with, or lease

or purchase the works or franchises of, or in any way control, any other railroad or canal corporation, owning, or having under its control a parallel or competing line." There may be two railroads running into the same town and meeting in the same depot or at some point where they connect. Under these circumstances, they would apparently be competing roads. This bill would permit the purchase of one of them and its franchises by the other, and is, therefore in violation of the prohibition contained in the Constitution.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 23.

AN ACT

To amend section ten of an act, approved the fourth day of June, one thousand nine hundred and one, entitled "An act providing when, how, upon what property, and to what extent, liens shall be allowed for taxes, and for municipal improvements, and for the removal of nuisances; the procedure upon claims filed therefor; the methods for preserving such liens and enforcing payment of such claims; the effect of judicial sales of the properties liened, and the manner of distributing the proceeds of such sales;" making it lawful for municipalities, in addition to, or in lieu of, the remedies therein provided for the collection of claims for water-rates and lighting-rates, to collect the same by means of cutting off the supply of water or light from the premises affected, and to prescribe penalties for failure to promptly pay the same, and confirming existing municipal regulations for such purposes.

Section 1. Be it enacted, &c., That section ten of the act, approved the fourth day of June, Anno Domini one thousand nine hundred and one, entitled "An act providing when, how, upon what property, and to what extent, liens shall be allowed for taxes, and for municipal improvements, and for the removal of nuisances; the procedure upon claims filed therefor; the methods for preserving such liens and enforcing payment of such claims; the effect of judicial sales of the properties liened, and the manner of distributing the proceeds of such sales," which provides as follows:

"Claims for taxes, water-rates, lighting-rates and sewer rates must be filed in the court of common pleas of the county in which the property is situated, on or before the last day of the second calendar year after that in which the taxes or rates are first payable; and other municipal claims must be filed in said court, within six months from the time the work was done in front of the particular property, where the charge against the property is assessed or made at the time the work is authorized; within six months after the completion of the improvement, where the assessment is made by the municipality upon all the properties after the completion of the improvement; and within six months after confirmation by the court, where confirmation is required; the certificate of the surveyor, engineer, or other officer supervising the improvement, filed in the proper office, being conclusive of the time of completion thereof, but he being personally liable to any one injured by any false statement therein. A number of years' taxes or rates of different

kinds, if payable to the same plaintiff, may be included in one claim. Upon each tax or municipal claim writ of scire facias, in the form hereinafter set forth, must issue within five years from its filing, and verdict must be recovered or judgment entered on the scire facias within five years after it is issued. Final judgment must be entered on the verdict within five years after its recovery. After judgment is entered, it must be revived by writ of scire facias to revive the judgment; or by judgment thereon within each recurring period of five years. If a claim be not filed within the time aforesaid, or if it be not prosecuted in the manner and at the times aforesaid, it shall be wholly lost: Provided, however, If a verdict be recovered before a jury, after trial or judgment be entered on such verdict, the lien thereof shall continue for five years from such recovery or entry, though a new trial be granted or the judgment be reversed on appeal," be and the same is hereby amended so as to read as follows:

Section 10. Claims for taxes, water-rates, lighting-rates and sewer rates must be filed in the court of common pleas of the county in which the property is situate, on or before the last day of the second calendar year after that in which the taxes or rates are first payable; and other municipal claims must be filed in said court, within six months from the time the work was done in front of the particular property, where the charge against the property is assessed or made at the time the work is authorized; within six months after the completion of the improvement, where the assessment is made by the municipality upon all the properties after the completion of the improvement; and within six months after the confirmation by the court, where confirmation is required; the certificate of the surveyor, engineer, or other officer supervising the improvement, filed in the proper office, being conclusive of the time of completion thereof, but he being personally liable to any one injured by any false statement therein. A number of years' taxes or rates of different kinds, if payable to the same plantiff, may be included in one claim. Upon each tax or municipal claim a writ of scire facias, in the form hereinafter set forth, must issue within five years from its filing, and verdict must be recovered or judgment entered on the scire facias within five years after it is issued. Final judgment must be entered on the verdict within five years after its recovery. After judgment is entered, it must be revived by writ of scire facias to revive the judgment, or by judgment thereon within each recurring period of five years. If a claim be not filed within the time aforesaid, or if it be not prosecuted in the manner and at the times aforesaid, it shall be wholly lost: Provided, however, If a verdict be recovered before a jury after trial or judgment be entered on such verdict, the lien thereof shall continue for five years from such recovery or entry, though a new trial be granted or the judgment be reversed on appeal: And provided further, That it shall be lawful for any municipality, in addition to or in lieu of the remedies hereinabove provided for the collection of claims for water-rates and lighting-rates, to make and enforce such regulations as may be provided by the proper authorities of said municipalities for the collection of such claims for water-rates and lighting-rates, by cutting off the supply of water or lighting from premises which may have been theretofore supplied with water or lighting, the rates for

which are unpaid and in arrears, to fix the time when such supply may be cut off, as aforesaid, and to provide such penalties as may be determined by said municipal authorities for failure to pay the said rates within such time as may be prescribed in accordance with the municipal regulations: Provided, however, That before or after any supply of water or lighting be cut off, the lessee or tenant may, on notice, pay the claim in arrears, with penalties and costs; in which event the receipt of the municipal authorities therefor shall be an accord and satisfaction, to that amount, of any rent due or thereafter to become due by the tenant or lessee to the owner or lessor of said premises.

Section 2. Any act or part of act conflicting herewith is hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 6, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 162, entitled "An act to amend section ten of an act, approved the fourth day of June, one thousand nine hundred and one, entitled 'An act providing when, how, upon what property and to what extent liens shall be allowed for taxes and for municipal improvements and for the removal of nuisances the procedure upon claims filed therefor, the methods for preserving such liens and enforcing payment of such claims, the effect of judicial sales of the properties liened and the manner of distributing the proceeds of such sales,' making it lawful for municipalities in addition to or in lieu of the remedies therein provided for, the collection of claims for water-rates and lighting-rates, to collect the same by means of cutting off the supply of water or light from the premises affected and to prescribe penalties for failure to promptly pay the same and confirming existing municipal regulations for such purposes."

The purpose of the amendment provided for in the present bill is to enable municipalities to collect their water rates and lighting rates by "cutting off the supply of water or lighting from premises which may have been theretofore supplied." If the remedy were confined to cutting off the light from the persons who had incurred the liability there could be no possible objection to it, but there is no such limitation of the power. It is intended to compel a subsequent tenant or the landlord of the premises to pay for light for which he is in no way responsible. While this would be a convenient and easy way for the municipality, it is wrong in principle and ought not to be encouraged.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 24.

AN ACT

To regulate the occupation of barbers in cities of the first, second and third class, or in boroughs of ten thousand population or over, in this Commonwealth, and to provide for the sanitary inspection and regulation of their business by the State Board of Health, and a State Board of Barbers as examiners, and providing for the creation of such State Board of Barbers as examiners.

Section 1. Be it enacted, &c., That it shall be unlawful for any person to follow the occupation of barber in cities of the first, second and third class, or in boroughs of ten thousand population or over, in this Commonwealth, unless he shall have first obtained a certificate of registration as provided in this act: Provided, however, That nothing in this act contained shall apply to or affect any person who is now, and for the past three (3) years has been, actually engaged in such occupation. A person so engaged less than three (3) years, shall be considered an apprentice, and at the expiration of three (3) years of such employment shall be subject to the provisions of this act, as hereinafter provided.

Section 2. A Board of Examiners, to consist of five barbers, is hereby created, to carry out the purposes and enforce the provisions of this act. The Governor shall, on or before July first, one thousand nine hundred and three, appoint two master barbers and three journeymen barbers, to serve as follows: One journeyman barber for one year, one master barber for two years, one journeyman barber for three years, one master barber for four years, and one journeyman for five years, who, with their respective successors to be appointed annually thereafter, and to serve for the term of four years, shall constitute a board of examiners of barbers, all of whom shall be practical barbers, who have been actually engaged in the business of barbering for at least ten (10) years. Each member of said board shall give a bond, in the sum of one thousand ($1,000) dollars, with sureties, to be approved by the Secretary of State, conditioned for the faithful performance of his duties, and shall take the oath provided by law for public officers. Vacancies in said board shall be filled by the Governor, for the unexpired portion of the term.

Section 3. Such board shall have the power to adopt reasonable rules and regulations prescribing the sanitary requirements of a barber shop, subject to the approval of the State Board of Health, and to cause the rules and regulations, so approved, to be printed in suitable form, and to transmit a copy thereof to the proprietor of each barber shop in each of the cities and boroughs aforesaid. It shall be the duty of every proprietor or person operating a barber shop in each of the cities and boroughs aforesaid, to keep posted in a conspicuous place in his shop, so as to be easily read by his customer, a copy of such rules and regulations. A failure of any such proprietor to keep such rules so posted, or to observe the requirements thereof, shall be sufficient ground for the revocation of his license; but no license shall be revoked without a reasonable opportunity being offered to such proprietor to be heard in his defense. Any member of said board shall have power to enter and make

reasonable examination of any barber shop, in each of the cities and boroughs aforesaid, during business hours, for the purpose of ascertaining the sanitary conditions thereof. Any barber shop, in which tools, appliances, and furnishings in use therein, are kept in an unclean and unsanitary condition, so as to endanger health, is hereby declared to be a public nuisance, and the proprietor thereof shall be subject to prosecution and punishment therefor.

Section 4. Each member of said board shall receive a compensation of five (5) dollars per day for actual service, and five (5) cents per mile for each mile actually traveled in attending the meetings of the board, which compensation shall be paid out of any moneys in the hands of the treasurer of said board, after an allowance thereof by the board, upon an itemized and verified claim therefor being filed with the secretary by the member claiming the same; but in no event shall any part of the expenses of the board or any member thereof be paid out of the State Treasury.

Section 5. Said board shall report annually to the Governor, a full statement of the receipts and disbursements of the board during the preceding year, a full statement of its doings and proceedings, and such recommendations as it may deem proper, looking to the better carrying out of the intents and purposes of this act. Any moneys in the hands of the treasurer of said board at the time of making such report, in excess of five hundred ($500) dollars, shall be paid over to the State Treasurer, to be kept by him for the future maintenance of the board, and to be disbursed by him upon warrants signed by the president and treasurer of said board.

Section 6. Said board shall meet at least once every year, in the city of Philadelphia, Pittsburg, Erie, Harrisburg and Scranton, and may also hold special meetings, as frequently as the proper and efficient discharge of its duties shall require, at a time and place to be fixed, as the rules shall provide for the giving of timely notice of all meetings to every member of the board; a majority of the members shall at an early meeting organize, and constitute a quorum for the transaction of business.

Section 7. Every person now engaged in the occupation of barber in this State shall, within ninety (90) days after the approval of this act, file with the secretary of said board an affidavit, setting forth his name, residence, and the length of time during which, and the place where, he has practiced such occupation, and shall pay to the treasurer of said board one ($1) dollar; and a certificate of registration, entitling him to practice said occupation, thereupon shall be issued to him.

Section 8. Any person desiring to obtain a certificate of registration under this act, shall make application to said board therefor, and shall pay to the treasurer of said board an examination fee of five ($5) dollars, and shall present himself at the next regular meeting of the board for the examination of applicants; whereupon said board shall proceed to examine such person, and, being satisfied that he is of good moral character, free from contagious or infectious diseases, that he had either studied the trade for at least three years as an apprentice, under a qualified and practicing barber, or had practiced the trade in another State for at least three (3) years, and is possessed of the requisite skill in said trade to properly per-

form all the duties thereof, including his ability in the preparation of tools, shaving, hair-cutting and all the duties and services incident thereto, and is possessed of sufficient knowledge concerning the common diseases of the face and skin to avoid the aggravation and spreading thereof in the practice of said trade, his name shall be entered by the board in the register hereinafter provided for, and a certificate of registration shall be issued to him authorizing him to practice said trade in this State.

Section 9. Nothing in this act shall prohibit any person from serving as an apprentice in said trade, under a barber authorized to practice the same, under this act.

An apprentice, within the meaning of this act, is one who has entered the employment of a qualified barber, for a fixed term, in order to learn the trade of barbering.

Every apprentice, in order to avail himself of the provisions of this act, must file with the Secretary of said Board a statement, in writing, showing the name and place of business of his employer, the date of commencement of employment with him, and the full name and age of said apprentice, and shall pay into the treasury of said board a fee of fifty (50) cents.

Section 10. Said board shall furnish to each person to whom a certificate of registration is issued, a card or insignia bearing the seal of the board, and the signature of its president and secretary, certifying that the holder thereof is entitled to practice the occupation of barber in this State; and it shall be the duty of the holder of such card or insignia to post the same in a conspicuous place, in front of his workingchair, where it may readily be seen by all persons whom he may serve. Said card or insignia shall be renewed on or before the first day of July of each year, and the holder of said certificate of registration shall pay to the secretary of said board the sum of one ($1) dollar for said renewal card or insignia. Upon the failure of any holder of a certificate of registration to apply for a renewal of his card or insignia on or before the first day of July in each year, his certificate may be revoked by said board, subject to the provisions of section twelve of this act.

Section 11. Said board shall keep a register, in which shall be entered the names of all persons to whom certificates are issued under this act, and said register shall be at all times open to public inspection.

Section 12. Board shall have the power to revoke any certificate of registration, granted by it under this act, for: (a) conviction of crime, (b) habitual drunkenness, for six months immediately preceding the filing of a charge with it therefor, (c) gross incompetency, (d) the keeping of a shop, or the tools, appliances or furnishings thereof, in an unclean and unsanitary condition, (e) failure to comply with the requirements of section ten of this act: Provided, That before any certificate shall be so revoked, the holder thereof shall have notice, in writing, of the charge or charges against him, and shall have a reasonable opportunity to be heard in his defense. Any person whose certificate has been so revoked, may, after the expiration of ninety (90) days, apply to have the same granted, and the same shall be regranted to him upon a satisfactory showing that the disqualification has ceased. The said board shall have the power to

summon any person to appear as a witness and testify at any hearing appointed by it, touching any such charge preferred against any barber of this State, and to examine such witness relating thereto, and shall have the right to administer oaths.

Section 13. To shave or trim the beard, or cut the hair, of any person, for hire or reward, received by the performing of such service or any other person, shall be construed as practicing the occupation of barbering, within the meaning of this act.

Section 14. Any person practicing the occupation of barber, without having obtained a certificate of registration as provided by this act, or wilfully employing a barber who has not such a certificate, or falsely pretending to be qualified to practice such occupation under this act, or violating any of the provisions of this act, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten (10) dollars or more than one hundred ($100) dollars, or by imprisonment in the county jail not less than ten (10) days or more than ninety (90) days.

Section 15. This act shall take effect and be in force from and after July one, one thousand nine hundred and three.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 6, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 142, entitled "An act to regulate the occupation of barbers in cities of the first, second and third class or in boroughs of ten thousand population or over in this Commonwealth, and to provide for the sanitary inspection and regulation of their business by the State Board of Health and a State Board of Barbers as examiners and providing for the creation of such State Board of Barbers as examiners."

The effect of this bill, if it became a law, would be to create a new crime, the punishment for which is imprisonment in the county jail for not less than ten days or more than ninety days. The crime which is thus established is that of "practicing the occupation of barber without having obtained a certificate of registration." If the system sought to be established by the bill is desirable, compliance with its requirements could properly be compelled by the imposition of penalties, but a failure to comply with its requirements is in no sense a crime and ought not to be so treated.

In others of its features the bill raises questions which are worthy of serious and careful consideration. If the object of the bill is to provide for the regulation of a trade, it would appear to be in violation of article three, section seven of the Constitution, which directs "the General Assembly shall not pass any local or special law * * * regulating labor, trade, mining or manufacturing" for the reason that it is confined in its action to cities of the first, second and third class and boroughs of ten thousand in population or over. If on the other hand it be a police regulation, looking to the maintenance of the health of the community, it would

not then be open to this objection." A careful examination of the provisions of the bill leads me to the conclusion that it is in fact a bill intended to regulate a trade. It provides for a board of examiners and that no one shall practice the art of a barber until he shall have undergone an examination, paid the fees and received a certificate of registration. It is true that one of the requirements to be ascertained by such examination is that each barber shall be "free from contagious or infectious diseases" and that he be "possessed of sufficient knowledge concerning the common diseases of the face and skin to avoid the aggravation and spreading thereof." No means, however, are provided to prevent the spread of such diseases. No supervision is given to the State Board of Health or the local boards of health. There is no provision for investigation as to the condition of barber shops.

If the purpose were to prevent the spread of skin diseases, there seems to be no reason why the act should not be extended to the whole State instead of being confined to certain cities and boroughs. There are other objections to the proposed act. Large sums of money are to be raised under it. Each barber is to be examined and pay a fee of $5.00. Each apprentice is to pay a fee of fifty cents. The card or insignia given to each barber is to be renewed once a year and for this renewel the sum of $1.00 is to be paid. The only expense provided for is the payment to each of the five members of the board of examiners of $5.00 a day for actual services and five cents a mile for each mile actually traveled in attending the meetings of the board. What is to be done with the residue does not appear, except that it is to be kept by the State Treasurer and to be disbursed by him upon warrants "signed by the president and treasurer of said board." The purpose for which this is to be expended is not disclosed. There is an inconsistency between section one, which provides "that nothing in this act contained shall apply to or affect any person who is now and for the past three (3) years has been actually engaged in such occupation" and section seven which provides that " every person now engaged in the occupation of barber in this State * * * shall pay to the treasurer of said board one dollar." Section thirteen which provides "to shave or trim the beard or cut the hair of any person for hire or reward received by the performing of such service or any other person shall be construed as practicing the occupation of barbering within the meaning of this act" is utterly insensible.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 25.

AN ACT

Relating to the establishment and maintenance of systems of sewerage and drainage, in the several townships of the first class in this Commonwealth; providing for the location, construction and extension of such systems by such townships, and by individuals and corporations, under the authority of such townships; for the acquisition by such townships of sewers and drains, owned by individuals and corporations; for ascertaining, securing, and paying the damages for property taken, injured or destroyed in such location, construction, extension and acquisition; for the assessment of the damages, cost and expense, incident to such location, construction, extension and acquisition, upon the properties benefited thereby and the connections with such systems.

Section 1. Be it enacted, &c., That the Board of Township Commissioners, in any township of the first class in this Commonwealth, shall have power, from time to time, to approve, locate, establish, construct, acquire, extend, and maintain systems of sewerage and drainage, locating the same, as far as practicable, along and within the lines of such of the public highways of the township as may to the commissioners seem advisable, and where it shall be reasonably impracticable, in the judgment of the commissioners, in any part of such system or systems to carry such sewers or drains along the lines of public highways, it shall be lawful for the commissioners to locate, construct and extend as much of the same as may be necessary through private lands. And the commissioners shall make the necessary provision for the disposition of the sewage and drainage within, or for carrying the same beyond, the limits of the township, and to this end they are hereby authorized to enter into contracts with other municipalities, and other corporations or persons, and to acquire such land within the township as may be necessary.

Section 2. In the event of the commissioners not having agreed with the owners, either for the land necessary for so much of the sewers and drains as shall not be located on public highways or for so much land as shall be required for the disposition of the sewage, it shall be lawful for the commissioners to enter upon said land, and mark thereupon the route and width of land necessary for the construction of the sewers or drains, with their appurtenances, or the boundaries of so much land as may be necessary for disposition of such sewage, and occupy the said land for such purposes.

Section 3. It shall be lawful for such commissioners, when in their judgment it is to the best interest of the township, to take as the whole, or a part or parts, of such system or systems of sewerage and drainage, any sewers and drains, with their connections and appurtenances, constructed and owned by individuals or corporations, and suitable for the township, paying to the person or persons, owning the same, or rights in or to use the same, according to their interests, the actual value of such sewers, drains, connections and appurtenances at the time of such taking.

Section 4. It shall be lawful for such commissioners, when in their judgment it is to the best interest of the township, by ordinance or resolution, containing the stipulation hereinafter mentioned, to authorize and permit any responsible individual, or individuals, or corporation, at his, their, or its own expense, to construct and maintain

and own any part, or parts, or all, of such system or systems of sewerage and drainage, theretofore or therein approved and authorized, according to such plans and specifications as the commissioners shall prescribe, and for these purposes to use and occupy the appropriate public highways. Said resolution or ordinance shall contain a stipulation, that the township shall have the right, at any time, to purchase and take that which is so constructed, under such authority, upon paying therefor a sum not exceeding the cost thereof (which cost shall include the cost of property necessarily acquired, and damages paid or secured, for the use and occupation of highways, and the expenses of any proceedings to ascertain the same), with simple interest on such cost, at a rate fixed therein, not exceeding six per centum per annum, less the net profit derived by such owner or owners from the operation of such sewers and drains. An estimate of the cost of materials and labor in the construction of such sewers and appurtenances shall be approved by the said commissioners, at or before the time such authority is granted, and shall not be exceeded. And where such part or parts, or all, of such system or systems are duly constructed, according to such plans and specifications and authority, and are kept in repair, the township shall construct or permit to be constructed no other sewers and drains along such highways, as are so occupied, without first exercising such right to take and acquire that which was so constructed, under such authority, and paying or securing the stipulated price therefor to the owners, or obtaining such owners' consent. The owners of such sewers and drains shall, from time to time, fix rates, terms and conditions upon which connections therewith may be made and continued by adjoining and adjacent property owners, and regulate the use thereof by the persons connecting their premises therewith; and the rates and charges for connecting with and using said sewers shall be a lien on the several properties connected therewith, and may be collected by claims filed and prosecuted, in the name of the township, to the use of such sewer owner or owners, in the manner provided by law for the collection of sewer-rates by townships of the first class.

Section 5. For the compensation for private property taken, injured or destroyed by any township, by virtue and under authority of this act, the funds of the township, and the township's power of taxation, and the remedies hereinafter provided, shall be security. Where any individual, or individuals, or corporation, may be authorized under section four of this act to use and occupy any public highways or highway, or part thereof, for the purposes therein set forth, and the owner or owners of the lands, upon which such highways or highway, or part thereof, extends, shall not consent or agree to such use and occupation thereof, any court of common pleas of the proper county, upon petition of the person or persons so seeking to make such use and occupation, shall appoint three impartial persons to view and assess the damages for such use and occupation, and make report thereof to the court, with a schedule showing the damages, and to whom payable. The court shall fix the time and manner of notice to be given by said viewers to the parties interested; and, where parties are unknown or cannot be found, notice of the proceedings of the viewers and of the filing of their report, given by

posting the premises affected, shall be sufficient. Upon the filing of the report of said viewers, or any two of them, in court, the same, if in proper form, shall be confirmed nisi, to become absolute in thirty days, unless excepted to or appealed from within such time; and such notice of such filing shall be given to the parties interested as the court shall direct; and the rights of the parties to except to said report, and to have a trial by jury, and an appeal to the Superior or Supreme Court, and the powers of the court to refer the matter back to the same or to other viewers, shall be the same as hereinafter provided in cases of property taken, injured or destroyed by townships, under this act. Such report of viewers may be confirmed absolutely as to all parties who have not excepted thereto or appealed therefrom; and on payment or tender of such damages, and in case of exception or appeal, upon filing in court security, to be approved by the court, in at least double the amount awarded by the viewers to such exceptants and appellants, conditioned for the payment to such exceptants or appellants of the amounts which may finally be found due them in such proceedings, the right to use and occupy said highway or highways or parts thereof, as aforesaid, shall be complete against all persons: Provided, Where a party cannot be found, a payment into court shall be a sufficient payment. Said viewers shall be entitled to the sum of two dollars each, for every day actually engaged in the performance of the duties of their appointment, to be paid by the petitioner or petitioners.

Section 6. In any case where property is taken, injured or destroyed by any township, by virtue and under the authority of this act, and the compensation for the damages or the benefits accruing therefrom have not been agreed upon, any court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition of such township, or any person interested, shall appoint three discreet and disinterested citizens of said county, who shall not be the owners of property or residents in the township in which such property is taken, injured or destroyed, as aforesaid, and appoint a time, not less than twenty nor more than thirty days thereafter, when such viewers shall meet upon the line of such existing or proposed sewers or drains, or on the land taken or proposed to be taken, and view the same and the premises affected thereby. The said viewers shall give at least ten days' notice of the time of their first meeting, by publication in a newspaper published in the township, if any; otherwise, in one or more newspapers published in such county, and by handbills, posted upon the premises, or otherwise, as the court shall direct, having regard to the circumstances of the case.

Section 7. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide, and true report to make, concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance of the provisions of this act, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the damages for property taken, injured or destroyed, and to whom the same is payable; and, having so estimated and determined the damages, together with the benefits, as hereinafter mentioned, they shall prepare a schedule thereof,

and give notice to all parties, to whom damages are allowed or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place, where said viewers will meet and exhibit said schedule, and hear all exceptions thereto and evidence.

Notice of the time and place of said meeting shall be given by personal service upon all parties allowed damages or assessed benefits, as shown upon said schedule, if resident in the township, and to all others by publication in a newspaper published in the township, if any; otherwise, in one or more newspapers published in such county. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages and benefits allowed and assessed in each case, and file therewith a plan, showing the line and course of such sewers and drains, the properties taken, injured or destroyed, and the properties benefited thereby. When said report is filed, or within ten days thereafter, notice thereof shall be given by publication, once, in the newspaper or newspapers publishing the notices provided for in section six of this act, unless the court, for cause shown, shall direct such publication to be made in some different newspaper or newspapers. Said notice shall state the date of filing of the report, and shall contain a schedule of the damages and benefits, as shown therein, and shall further state that unless exceptions thereto be filed within thirty days from the date of filing the said report will be confirmed absolutely.

Section 8. Upon the report of said viewers, or any two of them, being filed in said court, any party may, within thirty days thereafter, file exceptions to the same, and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or change the assessments made therein, or refer the same back to the same or new viewers, with like power as to their report. Or within thirty days from the filing of any report in court, any party whose property is taken, injured or destroyed, or against whose property an assessment is made, may appeal and demand a trial by jury; and any party interested in any assessment of damages or benefits may, within thirty days after final decree, have an appeal to the Supreme or Superior Court. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceeding, and may make all such orders as it may deem requisite.

Section 9. The payment of damages for property taken, injured or destroyed under authority of this act, shall be assessed by said viewers upon the property benefited, according to benefits, if sufficient can be found; but, if not, then the deficiency shall be paid by the township. In case any property is found upon which to assess such benefits, the viewers appointed to assess damages, having first estimated and determined the same apart from benefits, shall also assess the said damages, or so much thereof as they shall find just and reasonable, upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for which damages have been allowed, if, in their judgment, such properties will be benefited thereby, and shall report the same to said court. The total assessments for benefits shall not exceed the total damages awarded or agreed upon. Nothing in this section con-

tained shall be deemed to relieve such township from liability to the persons to whom such damages are awarded, for the full amount thereof, less such assessments or benefits as may be made against the properties of such persons, respectively; the assessment upon other property benefited being for the reimbursement of the township. It shall be lawful for the board of township commissioners, at discretion, to provide by ordinance that none, or only a specified part, of such damages shall be assessed upon the property benefited, as aforesaid; and such ordinance, being duly set forth in said petition or made known to said viewers, said assessments of benefits shall be omitted or limited accordingly.

Section 10. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry, taking, appropriation or injury of any property, under authority of this act.

Section 11. In case any such township shall repeal any ordinance, passed, or discontinue any proceeding taken, providing for any system or systems of sewers or drains, or any part or extension thereof, as hereinbefore authorized, prior to the entry upon, taking, appropriation or injury to any property, and within thirty days after the filing of the report of viewers assessing the damages and benefits, the said township shall not thereafter be liable to pay any damages which have been or might have been assessed; but all costs upon any proceedings had therein shall be paid by said township, together with any actual damage, loss or injury sustained by such proceedings.

Section 12. Whenever any such township shall purchase or construct any sewers or drains, as hereinbefore provided, the board of township commissioners shall determine by ordinance whether all or any part, and if a part, what part, of the costs and expenses of such sewers or drains and appurtenances shall be borne by the township; and, unless it shall be so determined that the whole of such costs and expenses shall be borne by the township, any court of common pleas of the proper county, or law judge thereof in vacation, on application thereto by petition of such township or any person interested, shall appoint viewers, as provided in the sixth section of this act, who shall assess said costs and expenses, or such part thereof as the township has not assumed to bear, as aforesaid, upon the property benefited by such sewers or drains and appurtenances, according to benefits, if sufficient property sufficiently benefited be found; but, if not, then the deficiency, when finally ascertained, shall be borne by the township; and the proceedings of said viewers, and the proceedings on their report, shall be as provided in this act for viewers and reports of viewers in cases of property taken, injured or destroyed.

Section 13. Each of said viewers shall be entitled to a sum not exceeding four dollars per day, for every day necessarily employed in the performance of the duties herein prescribed. The costs of the viewers, and all court costs incurred in the proceedings aforesaid, shall be defrayed by the township: Provided, That in case of appeals from the report of the viewers, after the same has been filed in court, or from the final confirmation or decree of the court to the Supreme or Superior Court, the costs on such appeals shall be paid by the loser, unless otherwise ordered by the court.

Section 14. The board of township commissioners of any township of the the first class, upon acquiring or proceeding to construct a system of sewerage and drainage, shall have power by ordinance or ordinances to provide for and regulate the manner in which, and the terms upon which, connections therewith by property owners may be made; and whenever said board shall deem it necessary and proper, for the preservation of the public health, that any property owner should connect his or her premises with the public sewer, for the purpose of having the sewage matter and other wastes therefrom discharged into such sewer, said board shall have power to compel such connection to be made whenever such property abuts upon or is within one hundred feet of a sewer main or branch thereof, in the same manner and under the same regulation as other connections with said sewer are made. And if any property owner, after sixty days' notice to do so by resolution of the said board, shall refuse or neglect to have his premises so connected, it shall be lawful for the said board to enter upon the said premises and have the same done, and to collect the cost thereof in the manner provided by law for the collection of municipal claims. The said board shall also have power to enforce, by penalties, such regulations as it may ordain with reference to the proper use, connection with, and maintenance of such sewerage system.

Section 15. This act shall not be construed to repeal or supply any prior act or acts, relative to the same matters, except in so far as may be necessary, in order that this act may have full force; being intended to provide alternatives rather than substitutes in such matters as to which it differs from prior acts.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 8, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 83, entitled "An act relating to the establishment and maintenance of systems of sewage and drainage in the several townships of the first class in this Commonwealth providing for the location, construction and extension of such systems by such townships and by individuals and corporations under the authority of such townships for the acquisition by such townships of sewers and drains owned by individuals and corporations for ascertaining, securing and paying the damages for property taken, injured or destroyed in such location, construction, extension and acquisition for the assessment of the damages, cost and expense incident to such location, construction, extension and acquisition upon the properties benefited thereby and the connections with such systems."

This bill provides for a system of drainage and sewerage for townships of the first class. In section four it is made lawful for the commissioners of the townships "to authorize and permit any responsible individual or individuals or corporation at his, their or its own expense to construct and maintain and own any part or parts or all of the system." The maintenance of a system of sewerage is

a municipal function to be exercised by the municipality or township for the benefit of the community. The sewers ought not to be a subject for barter and sale. A private corporation is not a means well adapted for the performance of the necessary work. There is a divided duty. The service to the public is always affected by the fact that it is important to make a profit for the holders of the stock. The bill authorizes the taking or improving of private property under the guise of the public benefit and then authorizes the sale of this property to individuals or corporations who presumably would not buy unless there could be assured a profit to themselves. If the time has come when there is need for township sewerage, the means ought to be provided by the townships and the ownership ought to remain with them. The tendency of corporations to secure control of public works with a view to anticipated profits and the easy going diposition of the representatives of municipalities to permit such control to be secured ought not to be encouraged or extended.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 26.

AN ACT

Regulating the age at which calves can be slaughtered for food, and providing a means of tracing to the origin any veal shipped to or from points in this Commonwealth.

Section 1. Be it enacted, &c., That on and after the passage of this act, no person shall slaughter for the purpose of selling the same for food, or expose for sale or sell within this State, or bring or cause to be brought into any city, town or village within this State, for food, the carcass of any calf or any part thereof, except the hide, unless it is in good, healthy condition, and was at least four weeks of age at the time of killing. Any person or persons may examine any calf or veal found within this State, offered or exposed for sale, or kept with intent to sell, as food; and if such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when so killed, he may seize the same and cause it to be destroyed, or disposed of in such a manner as to make it impossible to be used as food.

Section 2. It shall be unlawful for any corporation, partnership, person or persons, to ship to or from any part of this State any carcass or carcasses of a calf or calves, or any part of such carcass except the hide, unless they shall attach to every carcass or part thereof, so shipped, in a conspicuous place, a tag that shall stay thereon during such transportation, stating the names of the shipper, the points of shipping and the destination, and the age of the calf; and no railroad company, express company, steamboat company, or any other common carrier shall carry or receive for transportation any

carcass or carcasses of calves, or any part of the same except the hide, unless said carcass or carcasses or parts thereof shall be tagged as herein provided.

Section 3. Any violation of this act by any corporation, partnership, person or persons, railroad company, express company, steamboat company, or any other common carrier, shall be guilty of a misdemeanor, and subject to a fine of not to exceed one hundred ($100.00) dollars, nor less than ten ($10.00) dollars.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 13, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I herewith return without my approval House bill No. 141, entitled "An act regulating the age at which calves may be slaughtered for food, and providing a means of tracing to the origin any veal shipped to or from points in this Commonwealth."

This bill is intended to prevent the sale for food, and the transportation of veal from a calf under four weeks of age when it was killed. The purpose is entirely proper. The bill, however, contains the further provision that "any person or persons may examine any calf or veal found within this State offered or exposed for sale or kept with intent to sell as food, and if such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when so killed, he may seize the same and cause it to be destroyed."

This provision is most unwise. It would necessarily lead to controversies and breaches of the peace. Any person may, upon the allegation of a most uncertain fact, the age of a calf already dismembered, take the veal from its owner and destroy the evidence. Any hungry thief may easily get a meal, and then dispute with the owner about the age of the calf which, if too young, he is entitled to take. Most calves under four weeks of age are intended by their owners to be presently sold for food. Under this provision they could be examined by anybody and seized.

For these reasons the bill is disapproved.

SAML. W. PENNYPACKER.

No. 27.

AN ACT

Amending section one of an act passed on the twentieth day of June, Anno Domini one thousand nine hundred and one; to prevent the importation and sale, in the Commonwealth of Pennsylvania, of dressed carcasses of lamb and sheep with viscera in and hoofs on.

Section 1. Be it enacted, &c., That section one of an act, entitled "An act to prevent the importation, and sale, in the Commonwealth of Pennsylvania, of dressed carcasses of lamb and sheep with the hoofs on," and which reads as follows:

"Section 1. Be it enacted, &c., That on and after the passage of the act, it shall be unlawful for any person to import or sell, in the Commonwealth of Pennsylvania, any dressed carcasses of lamb or sheep without first removing from each and every carcass all hoofs," be and the same is hereby amended to read as follows:

Section 1. Be it enacted, &c., That on and after the passage of this act, it shall be unlawful for any person or persons, or body corporate, to import or sell in the Commonwealth of Pennsylvania any dressed carcass or carcasses of lamb or sheep without first removing from each and every carcass or carcasses the viscera and all hoofs.

Section 2. Be it also enacted, &c., That all violators of the above act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be subject to a penalty of not less than one hundred dollars nor more than three hundred dollars, for each and every violation, and upon a conviction of a second or more offences, an additional penalty of imprisonment of not less than sixty days or more than one year, for each and every offence, shall be prescribed.

Section 3. All acts or parts of acts inconsistent with this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
April 14, 1903.

To the Honorable, the House of Representatives of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 69, entitled "An act amending section one of an act passed on the twentieth day of June, Anno Domini one thousand nine hundred and one, to prevent the importation and sale in the Commonwealth of Pennsylvania of dressed carcasses of lamb and sheep with viscera in and hoofs on."

It is difficult to understand exactly what is the purpose sought to be accomplished by this bill. It makes unlawful the importation and sale of the carcasses of sheep and lambs unless viscera and hoofs have been removed. To violate the provisions of the bill by selling the carcass of a sheep with the hoofs on, if the offence be repeated, is made punishable by imprisonment for a year. If a farmer chooses to buy two slaughtered lambs from his neighbor to take to market, the vender becomes a criminal. However desirable the regulation of the trade may be the violation of this regulation is not a crime and ought not to be so treated. The bill is not approved.

SAML. W. PENNYPACKER.

No. 28.

AN ACT

To provide for the payment, expenses incurred and of per diem compensation to Captain James W. Umbenhauer, of company G, Fourth regiment, National Guard of Pennsylvania, during the time of his disability produced by pronchitis and typhoid fever, which he contracted in the service of the State, at Duryea, Pennsylvania:

Whereas, James W. Umbenhauer, captain of company G, Fourth regiment of the National Guard, who was called into service of the State during the riots at Shenandoah, Schuylkill county, July thirtieth, one thousand nine hundred and two, and was taken ill with bronchitis and typhoid fever, as a result of his exposure during the said service in the National Guard, and was confined to his home on account of such illness until December second, one thousand nine hundred and two;

And whereas, The Adjutant General, when paying him for his services, only gave him compensation to the thirtieth day of October, one thousand nine hundred and two, the date at which his pay ceased, and his company relieved from duty;

And whereas, By reason of such service and the sickness referred to, he was unable to do any duty until the second day of December, one thousand nine hundred and two, thereby losing his time and opportunities to earn a daily compensation; therefore,

Section 1. Be it enacted, &c., That the State Treasurer be, and he is hereby authorized and embowered to pay to Captain James W. Umbenhauer the sum of nine dollars and sixty-seven cents for car-fare expended, four dollars and sixty cents for drug bill, thirty dollars for doctor bill, forty dollars for nurse hire from October fourth to November fourteenth, when he became convalescent, and one hundred and sixty dollars, his pay at the rate per diem as if in the service of the State, although his pay at his regular employment would have been fully as much, or more, from the thirtieth day of October to the second day of December, the time at which he was able to attend to his regular avocation; the said sums of money to be paid out of any money in the treasury not otherwise appropriated, upon warrant to be drawn by the Auditor General in the usual manner; it being understood that the amount of money provided to be paid in this bill is to cover the amount to which said captain is justly entitled to, on account of the sickness which he contracted in the service, and which after his dicharge rendered him unable to perform any manual labor between the dates for which provision is herein made for payment.

Commonwealth of Pennsylvania,
Executive Department,
April 14, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I herewith return, without my approval, Senate bill No. 384, entitled "An act to provide for the payment, expenses incurred and of per diem compensation to Captain James W. Umbenhauer, of company G, Fourth regiment, National Guard of Penn-

sylvania, during the time of his disability produced by bronchitis and typhoid fever which he contracted in the service of the State at Duryea, Pennsylvania."

Captain James W. Umbenhauer, of company G, Fourth regiment, National Guard of Pennsylvania, while in service during the riots of 1902 "was taken ill with bronchitis and typhoid fever as a result of exposure." He was discharged October 30, 1902, and was paid in full until that time. He remained ill until December 2, 1902. This bill proposes to pay him $9.67 for car fare, $4.60 for drugs, $30 for the services of a doctor, and $40 for the services of a nurse from October 4th to November 14th, and $160 for pay up to December 2, 1902.

Typhoid fever is not the result of exposure, but is due to the development of germs taken into the system, and the source from which they come is often difficult of ascertainment. How the different diseases that afflict humanity are induced is often a problem involved in obscurity.

However meritorious the case, and however generous the intention, the bill would seem to violate article 3, section 18, of the Constitution, which directs that "No appropriations * * * shall be made for * * * benevolent purposes to any person or community."

SAML. W. PENNYPACKER.

No. 29.

AN ACT

Providing penalties for violations of rules or regulations made by the board of health of any municipality in this Commonwealth, and defining the method of enforcing the same.

Section 1. Be it enacted, &c., That any person violating any of the rules or regulations made by any legally constituted board of health in this Commonwealth, shall forfeit and pay a fine to such board of health as hereinafter provided. And any justice of the peace, alderman or magistrate of the county where such board of health exists, upon information or complaint made before him, by affidavit of one or more persons, charging any person or persons with having violated any such rules or regulations, is hereby authorized and required to issue his warrant, under his hand and seal, directed by any constable or police officer, and requiring such constable or police officer to cause such person or persons to be arrested and brought before such justice, alderman or magistrate, who shall hear and determine the guilt or innocence of the person or persons so charged; who, if convicted upon such charge, shall be sentenced by said justice of the peace, alderman or magistrate to pay a fine, for the use of such board of health, not exceeding the sum of twenty-five dollars ($25.00), at the discretion of such justice of the peace, alderman or magistrate: Provided, That in case the person or persons so charged shall neglect or refuse to pay, at once, the fine or fines so imposed, such person or persons shall forthwith be sentenced by

such justice of the peace, alderman or magistrate to undergo imprisonment, in the county jail of the county in which such municipality lies, for the period of one day for each dollar of fine so imposed and unpaid.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 13, 1903.

To the Honorable, the Senate of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 143, entitled "An act providing penalties for violations of rules or regulations made by the board of health of any municipality in this Commonwealth, and defining the method of enforcing the same."

This bill provides for fine and imprisonment for the violation of "any of the rules or regulations" made by any legally constituted board of health in this Commonwealth. It provides no means for giving notice, publicly or otherwise, of the rules and regulations to the persons who are to obey them or suffer punishment. The title does not properly designate the act. The title refers to the rules of the board of health of a municipality. The act refers to the rules of any board of health in the Commonwealth.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

VETOES.

BILLS FILED IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, WITHIN THIRTY DAYS AFTER THE ADJOURNMENT OF THE LEGISLATURE ON THE 16TH DAY OF APRIL, A. D. 1903.

No. 1.

AN ACT

To provide additional security to assignees of mortgages and purchasers of realty, by requiring recorders of deeds to note releases on the record of mortgages.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be the duty of the recorders of deeds of the several counties of this Commonwealth to enter, upon the margin of the record of any mortgage, wherein any release or releases of the whole or any part of the premises mentioned or described in any such mortgage are recorded, together with the date of such release, for which service the recorders shall charge, and be entitled to receive, the sum of ten cents for every release of which entry is made as aforesaid.

Section 2. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 16, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections, House bill No. 425, entitled "An act to provide additional security to assignees of mortgages and purchasers of realty by requiring recorders of deeds to note releases on the record of mortgages."

This bill proposes to make it the duty of recorders of deeds "to enter upon the margin of the record of any mortgage wherein any release or releases of the whole or any part of the premises mentioned or described in any such mortgage are recorded." The bill fails to define what is to be entered on the margin of the record, and is therefore meaningless.

SAML. W. PENNYPACKER.

No. 2.

AN ACT

In relation to the approval of all bonds or security before the courts, the several judges thereof, or the prothonotary or clerks of courts.

Section 1. Be it enacted, &c., That hereafter all bonds, or security of any kind whatever, in the courts of common pleas, quarter sessions, oyer and terminer, and orphans' court, shall be justified and approved before the court, or one of the judges or associate judges thereof in vacation; and in the absence of the judges from their respective districts for any cause, said bonds or security may be justified before and approved by the prothonotary or clerk of the court in which said bonds may be filed: Provided, That any interested person may lodge in writing, in any case, a request that the bond or security in such case shall not be approved without notice to such interested party or his counsel; and thereafter such bond or security shall not be justified or approved without such notice, in writing, having been previously given to the adverse party or his counsel.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 16, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 469, entitled "An act in relation to the approval of all bonds or security before the courts, the several judges thereof, or the prothonotary or clerks of courts."

This bill provides "That hereafter all bonds or security of any kind whatever in the courts of common pleas, quarter sessions, oyer and terminer and orphans' court, shall be justified and approved before the court or one of the judges or associate judges thereof in vacation." The effect of the bill would seem to be to postpone the approval of all bonds and security until vacation, which is not desirable.

SAML. W. PENNYPACKER.

No. 3.

AN ACT

Granting a pension to Alton L. Moyer, who was accidentally shot while attending to his duty as marker at target, at rifle range of company E, Sixteenth regiment, National Guard of Pennsylvania, near Cooperstown, Venango county, Pennsylvania, on or about July thirty-first, Anno Domini one thousand nine hundred and two, and providing for the payment thereof.

Whereas, Alton L. Moyer was accidentally shot, while attending to his duty as marker at target, at rifle range of Company E, Sixteenth regiment, National Guard of Pennsylvania, near Cooperstown, Venango county, Pennsylvania, on or about July thirty-first, Anno Domini one thousand nine hundred and two, and by reason thereof has become permanently disabled and unable to perform any manual labor; and,

Whereas, The said Alton L. Moyer is in destitute circumstances,—

Section 1. Be it enacted, &c., That a pension of eight dollars per month be paid to Alton L. Moyer, during the term of his life, commencing on the first day of May, Anno Domini one thousand nine hundred and three, and the said pension shall be paid by the State Treasurer every three months.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 16, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 487, entitled "An act granting a pension to Alton L. Moyer, who was accidentally shot while attending to his duty as marker at target at rifle range of company E, Sixteenth regiment, National Guard of Pennsylvania, near Cooperstown, Venango county, Pennsylvania, on or about July thirty-first, Anno Domini one thousand nine hundred and two, and providing for payment thereof."

The objections to this bill are the same as those which are set forth in more detail in the message accompanying House bill No. 188.

SAML. W. PENNYPACKER.

No. 4.

AN ACT

To determine the boundaries of abutting lots in adjacent highways, private ways and waters.

Section 1. Be it enacted, &c., That the word "way," as used in this act, means and includes streets, roads, lanes, alleys, passageways, waters water-ways, water-courses, public highways, and private ways of all kinds whatsoever in any of the following cases, to

wit: Whenever the same shall be one plotted upon any city, town, borough or other public plan; two, plotted upon any private plan, used, displayed or recorded for the alienation of abutting lots; three, legally opened; four, dedicated as such way, either expressly or impliedly; five, mentioned, described or referred to in any instrument affected by this act as any of the above classes of ways; six, physically existing, defined or open, or used as such way in each case, irrespective of whether the same be included in any other of the above cases. And the word "alien" means any sale, gift, grant, conveyance, devise, descent, mortgage or lease of land or real estate, and the derivatives of the word alien have meanings in conformity therewith.

Section 2. Whenever any land, tract of ground, or other real estate has been or shall be aliened or agreed to be so aliened, and such land, tract of ground or real estate is, in fact, bounded by, contiguous or adjacent to, any way as above defined, such alienation or agreement shall be construed to include, with the abutting lot, the soil or bed of such way to such extent as hereafter defined, to wit: Where the alienor owns or did own the land on both sides of such way, the same shall be included to the center thereof; where the alienor owns or did own on but one side of such way, all of such way as he does or did own shall be included, whether more or less than half. The side lines in such included way shall be determined, in the case of waters, water-ways and courses, by extending the side lines on the fast land from their intersection with the side of such water, on a line at right angles with the thread of such water, and in all other classes of ways by projecting the side lines of the abutting lot, in a straight line and on the same course such lines held immediately before intersecting the side of such way.

Section 3. This act shall not apply to any alienation where the way has been expressly excluded or reserved to the alienor: Provided further, This act shall not apply to such portions of any way, the fee of which is vested in the Commonwealth: Provided also, That this act shall not extinguish or affect any public or private easements in such ways, which have been or shall be created.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 16, 1903.

I file herewith with my objections, in the office of the Secretary of the Commonwealth, House bill No. 449, entitled "An act to determine the boundaries of abutting lots in adjacent highways, private ways and waters."

This act is very inartificially drawn. It contains such incomprehensible phrases as "and the word alien means any sale, gift, grant, conveyance, devise, descent, mortgage or lease of land or real estate, and the derivatives of the word alien have meanings in conformity therewith." And "whenever * * * real estate is in fact bounded by contiguous or adjacent to any way as above defined," and, "the side lines in such included way shall be determined in the case of waters, water ways and courses by extending

the side lines on the fast land from their intersection with the side of such water on a line at right angles with the thread of such water, and in all other classes of ways by projecting the side lines of the abutting lot in a straight line and on the same course such lines held immediately before intersecting the side of such way."

The bill also makes disposition of "the soil or bed of such way."

These words are not at all legal terminology, and it is impossible to gather the legal effect of the bill should it become a law.

SAML. W. PENNYPACKER.

No. 5.

AN ACT

To provide for the payment of the expenses of the maintenance and instruction of children committed to the Industrial Schools, or institutions of like character, which are not under State control, by the counties from which they have been sent, and providing a method for determining the amount due and collecting the same from said counties.

Section 1. Be it enacted, &c., That whenever a child shall be or heretofore shall have been committed to any industrial school, or other institution of like character, or shall have become an inmate thereof, whose parents or guardian are not of sufficient ability to pay the expense of instructing and maintaining such child, such maintenance and instruction shall be paid by the county from which such child shall have been received: Provided, however, only that the actual cost of maintaining and instructing such child shall be paid, and in no event shall such per capita maintenance and instruction exceed the amount of per capita cost of maintenance and instruction of inmates of the the House of Refuge.

And provided also, That the treasurer of such industrial school, or other institution of like character, shall transmit an account quarterly to the commissioners of such county or counties as may have become indebted for the maintenance and instruction of inmates in such industrial school, or other like institution, which account shall be signed by said treasurer and sworn or affirmed to by him, and attested by the superintendent of the department of such industrial school, or other institution of like character, in which such inmates may be living. It shall be the duty of said commissioners, immediately upon receipts of said accounts, to order the treasurer of their respective counties to pay the same.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 16, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 507, entitled "An act to provide for the payment of the expenses of the maintenance and instruction of children committed to the industrial schools or institutions of like character which are not under State control by the counties

from which they have been sent, and providing a method for determining the amount due and collecting the same from said counties."

This bill is almost identical in language with House bill No. 584, which became a law on the 15th day of April, 1903.

SAML. W. PENNYPACKER.

No. 6.

AN ACT

To amend an act, entitled "An act to exempt from taxation public property used for public purposes, and places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity," approved May fourteen, one thousand eight hundred and seventy-four, so as to include all assessments for paving, sewers, water-pipe, and other municipal charges.

Section 1. Be it enacted, &c., That section one of an act, approved May fourteen, one thousand eight hundred and seventy-four, entitled "An act to exempt from taxation public property used for public purposes, and places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity," which reads: "All churches, meeting houses, or other regular places of stated worship, with the grounds thereto annexed necessary for the occupancy and enjoyment of the same; all burial grounds not used or held for private or corporate profit; all hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence or charity, with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same; and all court houses and jails, with the grounds thereto annexed, be and the same are hereby exempted from all and every county, city, borough, bounty, road, school, and poor tax: Provided, That all property, real or personal, other than that which is in actual use and occupation for the purposes aforesaid and from which any income or revenue is derived, shall be subject to taxation, except where exempted by law for State purposes, and nothing herein contained shall exempt same therefrom," be amended so that the same shall read as follows:

All churches, meeting-houses, or other regular places of stated worship, with the grounds thereto annexed, necessary for the occupancy and enjoyment of the same; all burial-grounds not used or held for private or corporate profit, be and the same are hereby exempted from all and every county, city, borough, bounty, road, school, and poor tax, including all assessments for paving, laying of sewers or water-pipe, and all and every municipal charge or imposition levied or imposed by virtue of the taxing power: Provided, That nothing herein contained shall exempt from taxation any property, real or personal, other than that which is in actual use or occupation for the purposes aforesaid, or any such property, even if in actual use and occupation, from which any income or revenue is derived.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith, with my objections, in the office of the Secretary of the Commonwealth, House bill No. 70, entitled "An act to amend an act, entitled 'An act to exempt from taxation public property used for public purposes and places of religious worship places of burial not used or held for private or corporate profit and institutions of purely public charity,' approved May fourteen, one thousand eight hundred and seventy-four, so as to include all assessments for paving sewers, water pipe and other municipal charges."

The purpose of this bill is stated in the title to be to amend the act of May 14, 1874, which is an act to exempt from taxation certain descriptions of property "so as to include all assessments for paving, sewers, water pipe and other municipal charges." Under the words of the title the sole purpose of the bill is to extend the exemption. One of the provisions of the bill, however, is to subject to taxation "all hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence, or charity, with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same." These institutions have heretofore been exempt from such taxation. There is no reference to this important provision in the title of the bill as required by the Constitution. Many of these charities are not self-sustaining and their existence is only maintained through appropriations made in their behalf by the State. It may then well be questioned whether it is wise to subject them to such taxation.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 7.

AN ACT

To validate deeds of conveyance which have been made by committees of lunatics and habitual drunkards.

Section 1. Be it enacted, &c., That no grant, bargain and sale, enfeoffment, deed of conveyance, or other assurance of lands, tenements and hereditaments, whatsoever, made, executed and delivered by any committee of a lunatic or habitual drunkard, in pursuance of any order of court of common pleas of this Commonwealth, to bona fide purchasers for a valuable consideration, prior to June first, one thousand nine hundred and one, shall be deemed, held or adjudged invalid or defective, or insufficient in law, by reason of any informality or omission in giving notice to the wife of a lunatic or habitual drunkard, and the next of kin capable of inheriting the estate, of the application to such court for the sale of such land. But all and every such grant, bargain and sale, enfeoffment, deed of conveyance, or other assurance, so made and executed as afore-

said, shall be as good, valid and effectual in law for transferring, passing and conveying the estate, right, title and interest of such lunatic and habitual drunkard in and to the lands and tenements and hereditaments mentioned in the same, as if all the requisites and particulars of such application had been made.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 104, entitled "An act to validate deeds of conveyance which have been made by committees of lunatics and habitual drunkards."

This bill belongs to a class of legislation which is always looked upon with disfavor. It is an effort to cure by subsequent legislation defects in conveyances due to a failure to comply with the law as it existed at the time the conveyances were made. It is evidently intended to provide for a specific case, since while the language is general it is confined to conveyances made prior to the first of June, 1901. If the legislation be desirable there would seem to be no reason for limiting it to a period prior to that date. It is in all probability special legislation under the guise of a general law. The matter may be safely left to the determination of the court which made the decree.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 8.

AN ACT

To repeal an act approved the twentieth day of March, Anno Domini one thousand eight hundred seventy-two, entitled "An act to prohibit the granting of license for the sale of intoxicating liquors in the township of Snyder, in the county of Jefferson," and submitting the same to the voters of said township and the borough of Brockwayville, in said township.

Section 1. Be it enacted, &c., That the act of the General Assembly, approved the twentieth day of March, Anno Domini one thousand eight hundred and seventy-two, entitled "An act to prohibit the granting of license for the sale of intoxicating liquors in the township of Snyder, in the county of Jefferson," including the borough of Brockwayville, be and the same is hereby repealed.

Section 2. Provided said repeal shall not go into effect unless a majority of the duly qualified voters of said township and borough, aforesaid, shall vote in favor of said repeal at an election to be held as provided for in section three of this act.

Section 3. The same shall be submitted to a vote of the duly qualified electors of said township and borough, at an election to be held on the Tuesday next following the first Monday of November,

one thousand nine hundred and three. Such election shall be held at the places and by the officers provided by law for the holding of general elections. And it shall be the duty of the inspectors and judges of said election to receive the ballots, as provided by law, from electors qualified under the Constitution of this State to vote in said districts. Such ballots to contain the words "Repeal" and "No Repeal," and to deposit such ballots in a box provided for that purpose, as is provided by law; and the ballots so received shall be counted, and a return thereof made to the clerk of quarter sessions of the proper county, duly executed as required by law as to other ballots, and the clerk shall make record of the same.

Section 4. The ballots to be used at this election shall be furnished by the commissioners of the proper county, in the same manner as those now provided for, for the holding of general elections. And the sheriff of the proper county shall give public notice of said election by the publication of this act in three papers of general circulation in the county of Jefferson, at least one of which shall be published in the township of Snyder, in said county, which said notice shall contain the time and places of said election, and shall be published in said papers four consecutive times, immediately prior to the date of said election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 184, entitled "An act to repeal an act approved the twentieth day of March, Anno Domini one thousand eight hundred and seventy-two, entitled 'An act to prohibit the granting of license for the sale of intoxicating liquors in the township of Snyder, in the county of Jefferson,' and submitting the same to the voters of said township and the borough of Brockwayville in said township."

Section one of the bill expressly repeals the act of March 20, 1872, relating to the granting of licenses for the sale of intoxicating liquors in the township of Snyder, county of Jefferson. Section two of the bill which is in fact a proviso of section one, directs that the repeal shall not go into effect unless a majority of the voters of the township shall vote in favor of the repeal at an election to be held in the manner provided for in the bill. Should the election result against the repeal, section one of the bill would be without effect, but should the election result in favor of the repeal there is no time fixed in the bill at which the repeal shall go into effect. The bill is substantially a transfer of the right of legislation from the Legislature to the people of the township. If the people vote in a certain way then the bill is to go into effect. If they vote in another way, then its provisions are to be abrogated. Legislation depending upon the determination of an uncertain future event is not legislation at all. The bill is not approved.

SAML. W. PENNYPACKER.

No. 9.

AN ACT

To prohibit gypsies from camping, locating upon enclosed or unenclosed land without permission, and providing a penalty therefor.

Whereas, It has come to be a common practice for bands or companies of persons, commonly known as gypsies, to travel through the Commonwealth, without any fixed place or abode, and to camp or temporarily locate in or upon the lands of the citizens thereof, without right or leave, to the great annoyance, damage and injury to the said citizens, and there is now no adequate legal remedy to dispossess them; therefore,—

Section 1. Be it enacted, &c., That any person or persons, or association of persons, commonly known as gypsies, who shall enter in or upon, or in any manner camp or locate in or upon, the land or lands of any other person or persons, partnership or corporation, within this Commonwealth, for the purpose of camping or locating, or of temporarily detaining their horses, mules or stock, whether said lands be enclosed or unenclosed, without first having obtained written permission of the owner or occupier of such land or lands, shall be subject to a penalty of not less than five dollars or more than fifty dollars, for each and every offence.

Section 2. Any justice of the peace or alderman, upon information or complaint made before him, by the affidavit of one or more persons, of the violation of said act by any person or persons, shall issue his warrant, directed to any constable or police officer, to cause such person or persons to be arrested and brought before said justice or alderman, who shall hear and determine the guilt or innocence of such person or persons so charged; and if convicted of said offence or offences shall be sentenced to pay the said penalty aforesaid, attached to said violations, with costs; one-half to go to the party or parties injured, to pay for damages sustained, and the remaining one-half to the school fund of the district in which said offence was committed.

Provided, That the defendant or defendants, on refusing to pay at once said penalty, shall be committed to the common jail of the said county, for a period of not less than one day for each dollar of penalty imposed, unless the defendant or defendants enter in a recognizance, with good security, to answer said complaint, on a charge of misdemeanor, before the quarter sessions of the peace of the county in which the offence is committed; which court, on the conviction of the offence so charged, and failure to pay the penalty imposed by this act, with costs, shall commit said defendant or defendants to the common jail of the county, for a period not less than one day for each dollar of penalty imposed.

Section 3. The term "gypsie" shall be taken to mean a band or association of two or more persons, who travel from place to place, camping in wagons, tents or other temporary shelter, engaging by one or more of their number in trading and dealing in horses and other live stock, or engaging in and pretending the telling of fortunes.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 274, entitled "An act to prohibit gypsies from camping, locating upon enclosed or unenclosed land without permission and providing a penalty therefor."

This bill makes it unlawful for persons commonly known as gypsies to encamp upon lands enclosed or unenclosed "without first obtaining written permission of the owner or occupier of said land or lands," and punishes the offence by fine and imprisonment. Under our law the owner of lands may make a lease for three years by parole. A lease at will or a mere license is a less estate than a lease for three years and there seems to be no reason why the owner could not create such an estate by parole. The title does not accurately describe the provisions of the bill.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 10.

AN ACT

To prohibit the giving of meals or lunch by persons engaged in the sale of of liquor at retail, and providing a penalty therefor.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be unlawful for any individual, firm, partnership limited, partnership, joint-stock company, or corporation, conducting a business for the sale of liquor at retail, to give in connection therewith any eatables in the form of meals or lunch, except crackers, cheese and pretzels.

Whoever shall violate any of the provisions of this section shall, upon conviction, be liable to a penalty of one hundred dollars, and, in default of payment thereof, by imprisonment in the county jail for a period of ten days.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 300, entitled "An act to prohibit the giving of meals or lunch by persons engaged in the sale of liquor at retail and providing a penalty therefor."

This bill makes it unlawful for any liquor dealer "to give in connection therewith any eatables in the form of meals or lunch except crackers, cheese and pretzels." The bill does not make the

violation of its provisions either a crime or a misdemeanor, but it provides that upon conviction the dealer shall be subject to a penalty of $100. There is nothing to indicate what is the force of the word "therewith." There seems to be no reason why it should be an offense for a man who is making a sale to give something in addition if he chooses to do it. If it be wrong to make a gift, it is difficult to understand why there should be an exception in favor of crackers, cheese and pretzels. A roll or a piece of bread would appear to be as innocent as either a cracker or a pretzel. It is not wise to enact legislation which is so easily evaded. If the bill should become a law there would appear to be no difficulty in selling the crackers, cheese and pretzels and giving away the liquor or in making a sale of the liquor, crackers, cheese and pretzels for the same price at which the liquor would otherwise be sold.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 11.

AN ACT

To provide for the better sanitary conditions of hotels and boarding-houses, in townships of the second class, within this Commonwealth.

Section 1. Be it enacted, &c., That any inn, hotel or boarding-house within this Commonwealth, situate in any township of the second class,—the said inn, hotel or boarding-house containing over fifty sleeping rooms, and not being provided with a system of sewerage or drainage,—may, on petition to the court of common pleas in the county where the said inn, hotel or boarding-house is located, setting forth the aforesaid facts, and signed by five disinterested voters in the said township, be granted a permit to erect or construct such sewers or drainage, locating the same so far as practicable along, within, the line of the public road of such township.

Where it shall be found reasonably impracticable in any part of such system to carry such sewers or drainage along the line of the road, or where there is no natural outlet for such sewerage or drainage, the petition shall so state, and shall specifically set forth the line or direction contemplated by the said petitioner, and the name of the owner or owners of the land to be traversed, and, in case land be necessary for the disposition of such sewerage or drainage, the amount required and the location and owners thereof; and if in the opinion of the court such petition be proper, it shall and may be lawful to locate and construct so much of the said sewerage or drainage as may be necessary through private property; but the court may, in its discretion, alter or change the line or course specified in said petition; and before granting the same, the court shall appoint a jury of viewers, consisting of three disinterested citizens of the county, and shall appoint a time, not less than ten nor more than thirty days, for said viewers to meet on said land, of which time due notice shall be given; and the said viewers, having been

duly sworn or affirmed justly, faithfully and impartially to decide, and a true report to make, concerning all matters and things submitted to them, and having viewed the premises, shall estimate what amount of damage, if any, has been or may be sustained by reason of such occupation, taking and use, and to whom payable, and make report thereof to the said court; and if damage be sustained, and the report be confirmed by said court, the amount of said damage, if any, shall be paid by said petitioner.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 376, entitled "An act to provide for the better sanitary conditions of hotels and boarding houses in townships of the second class within this Commonwealth."

This bill provides that "any inn, hotel or boarding house" containing over fifty sleeping rooms in a township of the second class may, upon the petition of five voters, be granted a permit to erect sewers "through private property." The bill is a piece of very ill-considered legislation. It illustrates to what extent we have forgotten the principles of eminent domain and its effect would be to give to one man another man's property. How an inn, hotel or boarding house can erect a sewer is not explained. Who would be responsible if the inn did erect the sewer does not appear.

The damages are to be paid "by said petitioner," but the petition is to be signed "by five disinterested voters." Why the disinterested voters should be required to pay the damages it is also difficult to explain.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 12.

AN ACT

Creating and defining the offence of expectorating, or spitting, in any public conveyances, and other places resorted to by the public, and fixing the penalties for the commission of such offence.

Section 1. Be it enacted, &c., That if any person or persons shall expectorate, or spit, upon the sidewalk of a city, town or borough, or on the floors and passageways of public buildings, or on the floors of public conveyances propelled by steam, electricity, or otherwise, or on the floors of theatres, railroad-stations and other indoor places resorted to by the public, he, she or they, shall be guilty of a public nuisance; and upon conviction thereof before any magistrate, justice of the peace, alderman, mayor, or burgess shall be sentenced to forfeit and pay a fine not exceeding one dollar ($1), and in

default of payment thereof, shall be committed to and imprisoned in the county jail of the proper county for a period not exceeding five days.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 98, entitled "An act creating and defining the offense of expectorating or spitting in any public conveyances and other places resorted to by the public, and fixing the penalties for the commission of such offence."

This bill makes it unlawful for any person to spit upon the sidewalk of a city, on the floors and passage ways of public buildings, on the floors of public conveyances propelled by steam and electricity, on the floors of theatres and railroad stations and other indoor places and imposes a punishment by fine and imprisonment.

The purpose of the bill appears to be an effort to make people nice and cleanly in their habits by legislation. It is not confined to those who have consumption or other diseases which may be so transmitted. There are certain inconveniences which necessarily result from association with our fellows and which have to be endured. There is an affluvia, more or less disagreeable, from every living person. There is an exudation from every pore of the skin. There are conditions under which spitting is almost impossible to restrain. Among the thousands of people who go to a circus, one or more may have a cold, catarrh or sudden contact between the teeth and tongue may cause a flow of salvia. Imprisonment seems to be severe punishment for yielding to what cannot always be prevented. If spittoons were provided, there would be a stronger reason for such legislation. Upon the whole, while it must be conceded that spitting is not nice, pleasant or polite, it seems to me that it would be better to leave the cure of a bad habit to the gradual development of a better taste and higher culture rather than to attempt a regulation by law, in the shape of an enactment which imposes imprisonment, instead of a well digested health regulation.

For these reasons, the bill is not approved.

SAML. W. PENNYPACKER.

No. 13.

AN ACT

Empowering boroughs of this Commonwealth, without petition of property owners, to sewer public streets, or parts thereof, when the street or part thereof do not exceed five hundred feet in length, and connect two streets theretofore sewered; and providing for the costs, damages and expense thereof.

Section 1. Be it enacted, &c., That all boroughs in the Commonwealth shall have power, without petition of property owners, to

sewer public streets, or parts thereof, when said streets or parts thereof do not exceed five hundred feet in length, and connect two streets or parts of a street theretofore sewered: Provided, The ordinance authorizing and directing such improvement shall be adopted and enacted by an affirmative vote of three-fourths of the members elect comprising the councils of the said borough, and shall be approved by the burgess thereof. No such ordinance shall be finally adopted and enacted in less than thirty days from the date of its introduction, and in the meantime copies of said ordinance shall be published in a newspaper in the said borough, or circulating therein, once a week for two weeks, or circulating therein once a week, and by at least five handbills, posted along the proposed improvements ten days before the final passage in council thereof of such ordinance.

Section 2. In exercising the power aforesaid, all proceedings for the ascertainment of damages, and the assessments of benefits incident thereto, shall be as now provided by law in reference to payment of costs, damages and expenses of public improvements within municipal corporations.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 601, entitled "An act empowering boroughs of this Commonwealth without petition of property owners to sewer public streets or parts thereof when the street or part thereof do not exceed five hundred feet in length and connect two streets theretofore sewered and providing for the costs, damages and expense thereof."

This bill provides that all boroughs in the Commonwealth shall have power without petition of property owners "to sewer public streets." This bill is so imperfectly drawn that it ought not to become a law. There is no adequate means of ascertaining what it is the boroughs are given power to do. Where the streets are located is nowhere determined. The words "to sewer public streets" which contain the only description of the duty to be performed constitute a meaningless phrase.

SAML. W. PENNYPACKER.

No. 14.

AN ACT

To amend sections fifteen and seventeen of an act, entitled "An act to restrain and regulate the sale of vinous and spirituous, malt or brewed liquors, or any admixture thereof," approved the thirteenth day of May, Anno Domini one thousand eight hundred and eighty-seven; relating to the penalties and fines therein prescribed, and giving the court discretionary power in relation thereto.

Section 1. Be it enacted, &c., That section fifteen of an act, entitled "An act to restrain and regulate the sale of vinous and spirit-

uous, malt or brewed liquors, or any admixture thereof," approved the thirteenth day of May, Anno Domini one thousand eight hundred and eighty-seven, which reads as follows:

"Section 15. Any person who shall hereafter be convicted of selling or offering for sale any vinous, spirituous, malt or brewed liquors, or any admixtures thereof, without a license, shall be sentenced to pay a fine of not less than five hundred dollars, nor more than five thousand dollars, and undergo an imprisonment in the county jail of not less than three months, nor more than twelve months. Any person having license who shall hereafter be convicted of violating any of the provisions of the license laws shall be subjected to a fine of not less than one hundred, nor more than five hundred dollars, and for any second offense whereof he shall be convicted of not less than three hundred, nor more than one thousand dollars, and for any third offense whereof he shall be convicted a fine of not less than five hundred, nor more than five thousand dollars, and undergo an imprisonment in the county jail not less than three months, or more than twelve months, or both, or either, at the discretion of the court. Any person convicted of more than one offense shall not again be licensed in any city or county of the Commonwealth; and the license of any person permitting the customary visitation of disreputable persons, or keeping a disorderly place, may, upon proof, be at any time revoked by the court, and when thus revoked the same party shall not again be licensed in any city or county of the Commonwealth," be and the same is hereby amended so as to read as follows:

Section 15. Any person who shall hereafter be convicted of selling or offering for sale any vinous, spirituous, malt or brewed liquors, or any admixture thereof, without a license, shall be sentenced to pay a fine of not less than two hundred dollars nor more than five thousand dollars, and undergo an imprisonment in the county jail of not less than three months, or both, or either, at the discretion of the court. Any person, having license, who shall hereafter be convicted of violating any of the provisions of the license laws, shall be subjected to a fine of not less than one hundred dollars nor more than five hundred dollars, and, for any second offense whereof he shall be convicted, of not less than three hundred nor more than one thousand dollars, and, for any third offense whereof he shall be convicted, a fine of not less than five hundred nor more than five thousand dollars, and undergo an imprisonment in the county jail not less than three months nor more than twelve months, or both, or either, at the discretion of the court. Any person convicted of more than one offense shall not again be licensed in any city or county of the Commonwealth, and the license of any person permitting the customary visitation of disreputable persons, or keeping a disorderly place, may, upon proof, be at any time revoked by the court; and when thus revoked by the court, the same party shall not again be licensed in any city or county of the Commonwealth.

Section 17. Of said act which reads as follows, namely:

"Section 17. That it shall not be lawful for any person, with or without license, to furnish by sale, gift or otherwise to any person any spirituous, vinous, malt or brewed liquors, on any day which elections are now or hereafter may be required to be held, nor on

Sunday, nor at any time to a minor or a person of known intemperate habits, or a person visibly affected by intoxicating drink, either for his or her use, or for the use of any other person, or to sell or furnish liquors to any person on a pass-book or order on a store, or to receive from any person any goods, wares, merchandise or provisions in exchange for liquors, shall be held and deemed a misdemeanor, and upon conviction thereof the offender shall be fined not less than fifty nor more than five hundred dollars, and undergo an imprisonment of not less than twenty nor more than ninety days," be and the same is hereby amended so as to read as follows:

Section 17. That it shall not be lawful for any person, with or without license, to furnish by sale, gift or otherwise to any person any spirituous, vinous, malt or brewed liquors, on any day upon which elections are now or hereafter may be required to be held, nor on Sunday, nor at any time to a minor, or a person of known intemperate habits, or a person visibly affected by intoxicating drink, either for his or her use or for the use of any other person, or to sell or furnish liquor to any person on a pass-book or order on a store, or to receive from any person any goods, wares, merchandise or provisions in exchange for liquors, shall be held and deemed a misdemeanor, and upon conviction thereof the offender shall be fined not less than fifty nor more than five hundred dollars, and undergo an imprisonment of not less than twenty nor more than ninety days, or both, or either, at the discretion of the court.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 648, entitled "An act to amend sections fifteen and seventeen of an act, entitled 'An act to restrain and regulate the sale of vinous and spirituous, malt or brewed liquors or any admixture thereof,' approved the thirteenth day of May, Anno Domini one thousand eight hundred and eighty-seven, relating to the penalties and fines therein prescribed and giving the court discretionary power in relation thereto."

Under the proposed amendment to section fifteen of the act of May 13, 1887, any person who sells liquor without a license is subjected to a fine and "to undergo an imprisonment in the county jail of not less than three months." Under the act which it is proposed to amend the imprisonment is for "not less than three months or more than twelve months." If the bill were to become a law, the punishment might extend to imprisonment for a long term of years, even for life. This is more severe than the offense seems to require.

SAML. W. PENNYPACKER.

No. 15.

AN ACT

Authorizing the sheriffs, in counties having a population not exceeding one hundred and fifty thousand, to acquire and maintain bloodhounds for the use of the same, and requiring the respective counties to pay therefor.

Section 1. Be it enacted, &c., That the sheriff of every county of this Commonwealth, whose population does not exceed one hundred and fifty thousand, is hereby authorized to acquire and maintain, for the use and as the property of such county, two bloodhounds, and the cost of such acquisition and maintenance shall be paid by the respective counties as a lawful charge against them: Provided, however, That said dog or dogs shall be used only to pursue a person or persons charged with murder or felony: And provided further, That said dog or dogs shall be kept in close confinement except when accompanied by the sheriff of the respective county or his deputy or deputies: Provided however, That the annual charge upon this account shall not exceed three hundred and fifty dollars ($350.00).

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 489, entitled "An act authorizing the sheriffs in counties having a population not exceeding one hundred and fifty thousand to acquire and maintain bloodhounds for the use of the same and requiring the respective counties to pay therefor."

The purpose of this bill is to authorize the sheriff of every county whose population does not exceed one hundred and fifty thousand to acquire and maintain two bloodhounds which "shall be used only to pursue a person or persons charged with murder or felony." It is far better that a person charged with crime should escape than that the means provided for in this act should be used for his capture.

SAML. W. PENNYPACKER.

No. 16.

AN ACT

To authorize the paving of foot-ways, in cities of the first class, where property is assessed at suburban rates.

Section 1. Be it enacted, &c., That when a majority of the property owners, or the owners of a majority of the feet frontage for a

continuous distance of five hundred feet or more, on any one or both sides of any street, road or lane used as a public highway, in cities of the first class, where property is assessed at suburban rates, shall petition councils of said city for a paved foot-way along the same, they shall state in their petition the kind of pavement wanted by them; and councils shall, when such petition is received, direct the highway department of said city to notify the owners of property on said street or such parts thereof as may have been included in the petition, to have such footway paved in front of their respective premises, in the manner indicated in the petition, within thirty days after receiving said notice.

Section 2. That, should any of the property owners refuse or neglect to make said pavement for thirty days after notice has been given, the highway department shall proceed, without delay, to have it made, and charge the cost thereof to the property in front of which it is made; and if said cost is not paid within thirty days after a bill for the same has been presented, a claim shall be filed in the proper court for the amount thereof, which claim shall be a lien against the property, and shall be collected in the same manner as other municipal claims are now by law collected.

Section 3. That when said pavement requires repairing, and the owner or owners of property, in front of which the repairs are needed, neglect or refuse, after ten days' notice, to make such repairs, it shall be the duty of the highway department to have them made, without delay; and the costs thereof shall be collected in the same manner as the cost is ordered to be collected by the second section of this act.

Section 4. That nothing in this act shall prevent councils of the city of Philadelphia from directing the curb-stones to be set and brick pavements laid on the footways of any of the streets in said ward, whenever said streets are opened and graded according to confirmed surveys, and the advance of improvements may demand the same.

Section 5. That should a majority of the owners of property upon any of the said streets, upon which public lamps have been erected, refuse to petition councils for a pavement, it will be competent for any two citizens living upon said street to petition the councils for the said pavement, setting forth the condition of the sidewalks, sworn to before a magistrate; and the councils shall order the commissioners of highways, as is provided in section first of this act, to notify said owners to put down a pavement in conformity with this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 585, entitled "An act to authorize the paving of foot ways in cities of the first class where property is assessed at suburban rates."

This bill provides that "when a majority of the property owners or the owners of a majority of the feet frontage for a continuous

distance of five hundred feet or more on any one or both sides of any street, road or lane in cities of the first class where property is assessed at suburban rates shall petition councils for a paved foot way, stating the kind of pavement wanted by them and councils shall direct the highway department to notify the owners to have such foot way paved in front of their respective premises in the manner indicated in the petition. In the event that the property owners fail to make such pavement for thirty days after notice, the highway department shall proceed to have the pavement made and file a claim which shall be a lien against the property, to be collected as other municipal claims are collected.

Under this bill the authority to direct the kind of pavement is taken away from the councils where it properly belongs and is given to a majority of the property owners having property within a continuous space of five hundred feet. These persons are to select the kind of pavement they want, the councils are to direct that this pavement be laid and the other property owners are to pay their proportion. This, however, is not the most defective part of the bill. Under section five, it is provided that if a majority of the owners of property refuse to petition for the pavement, it shall be competent for any two citizens living upon the street to petition for the pavement and thereupon councils shall order the commissioners of highways to notify the owners to put down a pavement "in conformity with this act." This provision not only takes away the authority from the councils, but gives to any two citizens living upon the street power to determine the kind of pavement though a majority of the owners of property differ from them in judgment.

SAML. W. PENNYPACKER.

No. 17.

AN ACT

To provide for the health of the people of this Commonwealth; making it a misdemeanor for any doctor or other person knowingly not to report a case of small-pox, diphtheria or scarlet fever which may come to their knowledge; making it compulsory upon cities, boroughs and townships to furnish to any quarantined person or persons medical care and attention, nursing and the necessaries of life; and providing a method whereby citizens may petition the court to correct any abuses therein; providing penalties for the violation of any section of this act.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be a misdemeanor for any medical doctor or other person to knowingly not report to the Board of Health or other constituted authorities within any city, borough or township, within ten hours after he or she shall have discovered the same, any case of small-pox, diphtheria or scarlet fever. Upon violation of this section, the person or persons so offending shall be liable to prosecution; and upon conviction thereof, in the court of quarter sessions of the peace, the said person or persons shall be fined not less than fifty dollars nor more than five hundred dollars,

and to an imprisonment in the county jail for not less than ten days or more than six months, or both, or either, at the discretion of the court.

Section 2. It shall be the duty of the Board of Health or other regularly constituted authorities of any city, borough or township, wherever such authorities shall quarantine any person or persons, either in a pest-house, hospital, private dwelling-house or other building, to furnish to said person or persons so quarantined the best possible medical attendance, nursing, food, and other absolutely necessary articles or attendance, at the expense of said person or persons so quarantined, except in the case of poor and indigent persons, then it shall be at the expense of said city, borough or township, wherein the said quarantine shall be located, or where the small-pox, diphtheria or scarlet fever case may have been removed from. It shall be the right and privilege of any citizen of this Commonwealth to petition the judges of the court of common pleas of the county wherein such small-pox, diphtheria or scarlet fever is located, for a correction of any violation of the provisions of this section of this act; and the court, after immediate hearing upon said petition, shall make such order upon the board of health or other constituted authorities who placed a quarantine upon the person or persons having such small-pox, diphtheria or scarlet fever, or had removed them to any pest-house or hospital, as shall entirely and thoroughly carry out the provisions of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 455, entitled "An act to provide for the health of the people of this Commonwealth making it a misdemeanor for any doctor or other person knowingly not to report a case of small-pox, diphtheria or scarlet fever which may come to their knowledge, making it compulsory upon cities, boroughs and townships to furnish to any quarantined person or persons medical care and attention, nursing and the necessaries of life and providing a method whereby citizens may petition the court to correct any abuses therein providing penalties for the violation of any section of this act."

This bill makes it a misdemeanor "for any medical doctor or other person to knowingly not to report to the Board of Health or other constituted authorities within ten hours after he or she shall have discovered the same any case of small-pox, diphtheria or scarlet fever," and imposes a fine of not less than $50.00 or more than $500 and imprisonment of not less than ten days or more than six months. An act requiring a doctor to report the cases which may come within his professional knowledge would be entirely proper, but this bill goes much further. It imposes upon every person the duty of reporting all the cases of the described diseases of which they may know and threatens a long term of imprisonment if they fail to make such report. We shall, therefore, have the entire population of boroughs and townships running to the board of

health with a mass of imperfect and often useless information because they are utterly without the ability to determine whether a case which has come within their observation is or is not small-pox. diphtheria or scarlet fever.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 18.

AN ACT

To provide for the better protection and preservation of game quadrupeds and game birds, song and insectivorous birds, and prescribing penalties for violation of its several provisions.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be unlawful to kill or capture or have in possession after the same has been killed or captured, in this Commonwealth, any elk, deer or fawn, save only from the first day of November to the thirtieth day of November of each year, inclusive. It shall be unlawful at any time to pursue, kill or capture any elk, deer or fawn in the waters of any of the streams, lakes or ponds of this Commonwealth. It shall be unlawful to make use of a dog or dogs in hunting deer, elk or fawn within this Commonwealth. Each and every person who shall offend against any of the provisions of this section shall be liable to a penalty of one hundred dollars for each offense committed, in default of the payment thereof, with the costs of prosecution, shall undergo an imprisonment in the county jail for a period of one day for each dollar of penalty imposed. Any dog pursuing or killing any elk, deer or fawn, or following upon the track of any elk, deer or fawn, in this Commonwealth, is hereby declared public nuisance, and may be killed by any person when so seen. It is hereby made the duty of all officers of the State whose duty it is to protect the game of the State, to kill all dogs known to be in the habit of pursuing or following upon the track of elk, deer or fawn in this Commonwealth, and the owner or owners of said dog or dogs shall have no recourse at law whatever.

Section 2. It shall be unlawful for any person to catch, take or kill, in this Commonwealth, or, except as hereinafter provided, have in his or her possession or under his or her control after the same shall have been killed, any wild turkey, quail or Virginia partridge, save only from the first day of November to the fifteenth day of December, inclusive, of each year: Provided, That it shall be lawful to catch, take and kill ruffed grouse, commonly called pheasant, from the fifteenth day of October to the fifteenth day of December, inclusive. Any person who shall violate any of the provisions of this section shall be liable to a penalty of twenty-five dollars for each bird so taken, or, in default of the payment thereof with the costs of prosecution, shall suffer an imprisonment in the county jail for a period of one day for each dollar of penalty imposed.

Section 3. It shall be unlawful for any person, company, corporation, or the agent or employe thereof, to purchase, sell, or expose for sale, any elk, deer or fawn, wild turkey, wild pigeon ruffed grouse, commonly called pheasant, quail or Virginia partridge, or woodcock, killed in this Commonwealth. Each and every person who shall offend against any of the provisions of this section shall be liable to a penalty of one hundred dollars for every elk, deer or fawn, or part thereof, so purchased, sold or exposed for sale in this Commonwealth, and twenty-five dollars for each wild turkey, ruffed grouse, commonly called pheasant, quail or Virginia partridge, or woodcock, or part thereof, so purchased, sold or exposed for sale in this Commonwealth; or, in default of the payment thereof, with the costs of prosecution, to suffer an imprisonment in the county jail for a period of one day for each dollar of penalty imposed.

Section 4. It shall be unlawful for any one to hunt or kill game in this Commonwealth for wages, or hire, or for ammunition or other shooting supplies; and it shall be unlawful for any one to hire or pay any wages, give any money, ammunition or other shooting supplies, or any other thing of value, to any person for killing of game, or to take or receive any game killed by any person to whom any money, ammunition or other shooting supplies, or other valuable thing, has been paid or given, as hire or reward, for the killing of game for the person paying or giving the same; and no person shall kill in any one season, in this Commonwealth, more than forty ruffed grouse, commonly called pheasant, or more than three wild turkeys, or more than thirty woodcock, or more than one hundred quail, or Virginia partridge. Each and every person who shall offend against any of the provisions of this section shall be liable to a fine of one hundred dollars for each elk, deer or fawn so killed, and twenty-five dollars for each ruffed grouse, commonly called pheasant, wild turkey, woodcock or quail so killed, or in excess of the limit fixed by this section.

Section 5. It shall be unlawful to catch, take or kill, or have in possession after the same has been so taken or killed, any woodcock, dove or grackle, commonly called blackbird, gray, black or fox squirrel, save only from the first day of October to the fifteenth day of December, inclusive, of each year. Each and every person who shall offend against any of the provisions of this section shall be liable to a penalty of twenty-five dollars for each woodcock, and ten dollars for each of the other birds or animals named in this section, killed in violation of its provisions; or, in default of the payment thereof, to suffer imprisonment in the county jail for a period of one day for each dollar of penalty imposed.

Section 6. That in all prosecutions for violations of any of the provisions of this act, proof of possession of any such game, or the fresh skin, or any portion of the fresh skin or fresh carcass of such game, bird or animal, at any time when the killing, taking or having in possesion of such game is prohibited, shall be prima facie evidence of a violation of the law by the person or persons in whose possession or under whose control the same shall have been found. Each and every person offending against any of the provisions of this act shall be liable to the penalty imposed by the section govern-

ing the same, or to imprisonment in the county jail for a period of one day for each dollar of penalty imposed.

Section 7. All actions for violation of any of the sections of this act shall be commenced within a period of one year from the date such violation was committed, and any magistrate, justice of the peace or alderman, on complaint made before him by the affidavit of one or more persons of the violation of any of the provisions of this act, is hereby authorized and required to issue his warrant, under his hand and seal, directed to any constable, public officer, game protector or game warden, and to cause such person or persons to be brought before such magistrate, justice of the peace or alderman, who shall hear and determine the guilt of the person or persons charged; and, if convicted, said person or persons shall be sentenced to pay the fines of penalties attached to such violation, together with the costs of prosecution; one-half of which penalty shall be paid to the prosecutor, and the remaining one-half shall be forthwith forwarded to the treasurer of the county in which the offence is committed, together with a transcript of the proceedings in such case, the expense of said transcript to be added to the costs of suit; and it shall be the duty of said treasurer to make a record of the cause for which said money has been collected, and at once forward said transcript, or a copy thereof, to the Secretary of the Game Commission, at Harrisburg, and at the end of each month to forward the fund so arising to the State Treasurer, to be kept by the latter as a fund separate and apart for the use of the Board of Game Commissioners, to be drawn out upon warrant signed by the president of the said Board of Game Commissioners and the Auditor General of the Commonwealth: Provided, That any defendant, on refusing to pay said penalty together with the costs of prosecution, shall be committed to the common jail of the county for a period of not less than one day for each dollar of penalty imposed, unless the said defendant shall enter into recognizance, with good and sufficient sureties, to answer said complaint, on the charge of misdemeanor, before the court of quarter sessions of the peace of the county in which the offense was committed; which said court, on conviction of the defendant of the offense charged, and failure to pay the penalty imposed by this act, together with the costs of prosecution, shall commit said defendant to the common jail of the county for one day for each dollar of penalty imposed.

Section 8. Any person may have in his or her possession the game birds and game mammals herein mentioned for a period of fifteen days after the time limit for the killing of the same has expired, and shall not be liable to any penalty under this act: And provided, That the term of imprisonment imposed, at any one time, for violation of the provisions of this act shall at no time exceed one year.

Section 9. All acts general or special and all sections, provisos, acts or parts of acts inconsistent with this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 327, entitled "An act to provide

for the better protection and preservation of game quadrupeds and game birds, song and insectivorous birds and prescribing penalties for violation of its several provisions."

It is with extreme regret that I feel compelled to disapprove this bill, since a well considered bill providing for the protection of game and insectivorous birds would be very desirable. The bill, however, is conceived in the spirit of violence. All dogs known to be in the habit of following deer are to be killed and "the owner or owners of said dog or dogs shall have no recourse at law whatever." For killing a quail out of season a penalty of $25.00 is imposed and if it be not paid an imprisonment of one day for each dollar of the penalty. To receive any deer killed for hire is to incur a penalty of $100 and to receive any quail killed for hire is to incur a penalty of $25.00, and upon failure of payment an imprisonment of one day for each dollar is imposed. There may, therefore, be a long term of imprisonment and the culprit may have had no knowledge whatever that the animal or bird has been killed for hire. Experience has shown that the only effect of imposing penalties and punishments disproportioned to the offense is that magistrates and juries will not enforce them. It is to be feared if the bill became a law it would defeat the object it has in view. For these reasons it is not approved.

SAML. W. PENNYPACKER.

No. 19.

AN ACT

To regulate the sale of anthracite coal by the ton, in deliveries by retail coal dealers.

Section 1. Be it enacted, &c., That any person or retail coal dealer who shall sell or delivered a ton of anthracite coal, the avoirdupois of which shall be less than two thousand two hundred and forty pounds to a ton, or proper proportion thereof to quantities less than a ton, throughout this Commonwealth, in all transactions between retail coal dealers and their customers, shall be guilty of a misdemeanor; and upon conviction, shall be compelled to undergo an imprisonment of not less than three months nor more than one year: Provided, That in all cases, forty pounds shall be allowed for variation in scales.

Section 2. All laws or parts of laws inconsistent with or contrary to this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 405, entitled "An act to regulate

the sale of anthracite coal by the ton in deliveries by retail coal dealers."

This bill imposes upon a retail coal dealer who shall violate its provisions an imprisonment of not less than three months or more than one year, and, therefore, ought to have been drawn with care. Its phraseology is very uncertain and inexact. It provides "that any person or retail coal dealer who shall sell or delivered a ton of anthracite coal, the avoirdupois of which shall be less than two thousand two hundred and forty pounds to a ton, or proper proportion thereof to quantities less than a ton" shall be guilty of a misdemeanor. The phrase "avoirdupois of which" appears to be a misuse of words. The phrase "proper proportion thereof to quantities less than a ton" is at least open to misconstruction. The effect of the proviso "that in all cases forty pounds shall be allowed for variation in scales" can only be held to mean that twenty-two hundred pounds may be sold for a ton and, therefore, to that extent nullifies the preceding provision. The bill would appear to be unnecessary. The act approved June 26, 1895, Pamphlet Laws, page 334, fixes the number of pounds of anthracite coal which constitute a ton. It also imposes a penalty. If a dealer should knowingly sell as a ton of coal a less number of pounds he would be liable under the law as it is to criminal prosecution.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 20.

AN ACT

To amend section fourteen of an act, entitled "An act to establish an Insurance Department," approved the fourth day of April, one thousand eight hundred and seventy-three, as amended by an act, entitled "A supplement to an act, entitled 'An act to establish an Insurance Department,' approved the twenty-sixth day of April, one thousand eight hundred and eighty-seven, providing for the further regulating of foreign insurance companies, and relating to agents and others doing business with unauthorized insurance companies, and defining penalties therefor."

Section 1. Be it enacted, &c., That so much of the act of April fourth, one thousand eight hundred and seventy-three, as is contained in section fourteen, as amended by the act of April twenty-sixth, one thousand eight hundred and eighty-seven, entitled "A supplement to an act, entitled 'An act to establish an Insurance Department,'" which reads as follows:

"That any insurance company or association not of this State, doing business without authority, agreeably to the provisions of this act shall forfeit and pay to this Commonwealth the sum of five hundred dollars for each month, or fraction thereof, during each month, on and after the passage of this act, in which such illegal business was transacted, and be prohibited from doing business in this State until such fines are fully paid. And that any person or persons, or any agent, officer, or member of any corporation paying, or receiv-

ing, or forwarding any premiums, applications for insurance, or in any manner securing, helping, or aiding in the placing of any insurance, or effecting any contracts of insurance upon property within this Commonwealth, directly or indirectly, with any insurance company or association not of this State, and which has not been authorized to do business in this State, under the terms of this act, shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars nor more than one thousand dollars, and upon conviction of a second offense shall be sentenced to pay a like fine and undergo an imprisonment not exceeding one year, or either, in the discretion of the court: Provided however, That in the event of a larger line of insurance being required on any risk than that which the home companies and insurance companies or associations not of this State, but authorized to do business within this State, shall be willing to carry, that then the person or corporation desiring such insurance shall file a sworn statement to that effect with the Insurance Commissioner, and thereupon the said Insurance Commissioner, first being satisfied of the truth thereof, shall issue a license to the person or corporation making such application, and thereupon it shall be lawful for the person or corporation, so licensed as aforesaid, to procure such excess line of insurance beyond that which the home and authorized foreign companies shall be willing to carry as aforesaid, from authorized insurance companies or associations not of this State. Every person or corporation so licensed shall, at the time of expiration of said license, make a report to the Insurance Commissioner of all insurance effected in pursuance of said license, and pay a tax of six per centum on the gross premiums thereon, which said tax shall accompany said returns. The Insurance Commissioner shall charge and collect for every license so issued a fee of five dollars. Every such license, so issued as aforesaid, shall expire at the expiration of three months from the date of issuing the same," be amended so as to read as follows:

That any insurance company or association not of this State, doing business within this State without authority agreeably to the provisions of this act, shall forfeit and pay to the Commonwealth the sum of five hundred dollars for each month, or fraction thereof during each month, on and after the passage of this act, in which such illegal business was transacted, and be prohibited from doing business in this State until such fines are fully paid. And that any person or persons, or any agent, officer or member of any insurance firm or corporation within this Commonwealth, paying or receiving or forwarding any premiums, applications for insurance, or in any manner securing, helping or aiding in the placing of any insurance, or effecting any contracts of insurance upon property within this Commonwealth, or elsewhere, directly or indirectly, with any insurance company or association not of this State, and which has not been authorized to do business in this State under the terms of this act, shall be guilty of a misdemeanor; and upon conviction thereof shall be sentenced to a fine of not less than three hundred dollars nor more than one thousand dollars, and upon

conviction of a second offense shall be sentenced to pay a like fine and undergo an imprisonment not exceeding one year, or either, at the discretion of the court; and any agent or representative doing business in this State in behalf of an insurance company of any other State or government, which does not comply with the laws of this Commonwealth, shall be personally liable on all contracts of insurance made by or through him, directly or indirectly, for or in behalf of any such unlicensed company. Any person or persons soliciting applications for insurance, inspecting risks, delivering policies; paying, receiving or forwarding premiums; or in any way advertising himself or themselves as the representative or representatives of any such unlicensed company, shall be deemed to be the agent of the company, within the meaning of this act. Any person, individually and knowingly insuring his own property in an unauthorized foreign insurance company, paying or forwarding premiums, applications for insurance, or in any manner securing insurance upon his property within this Commonwealth with any unauthorized foreign insurance company; or, as the agent, officer or member of any corporation, paying or forwarding premiums, applications for insurance, or in any manner securing, helping or aiding in placing of any insurance, or effecting any contracts of insurance, upon his or their property within this Commonwealth, directly or indirectly, with any insurance company or association not of this State, and which has not been authorized to do business in this State, shall be guilty of a misdemeanor; and upon conviction thereof shall be sentenced to a fine of not less than one hundred dollars nor more than one thousand dollars, and upon conviction of a second offense shall be sentenced to pay a like fine and undergo an imprisonment not exceeding one year, or either, at the discretion of the court: Provided however, That in the event of a larger line of insurance being required on any risk, than that which the home companies, and insurance companies not of this State but authorized to do business within this State, shall be willing to carry, that then the person or corporation desiring such insurance shall file a sworn statement with the Insurance Commissioner, showing the total amount of insurance required on the risk, the amount which has been placed in home and licensed foreign companies, and the amount which it is necessary to procure in unadmitted companies, together with the name of the agent or broker selected to procure the excess insurance; and thereupon the Insurance Commissioner, first being satisfied of the truth thereof, shall issue a license to the person or corporation making such application; and it shall then be lawful for the person or corporation, so licensed as aforesaid, to procure directly, or through their designated agent or broker, such excess line of insurance, beyond that which the home and authorized foreign companies shall be willing to carry, from unauthorized insurance companies or associations not of this State. Every person or corporation, so licensed, either personally or through their designated broker shall, at the time of expiration of said license, make a report to the Insurance Commissioner of all insurance effected in pursuance of said license, and pay a tax of four per centum on the gross premiums thereon, which tax shall accompany said returns. Every person or corporation procuring licenses, as

aforesaid, shall pay to the Insurance Commissioner a fee of ten dollars, and every such license so issued shall expire at the expiration of six months from the date of issuing the same.

And in the event of the neglect or refusal of any person or corporation to make report, and pay the tax required by this act, the Insurance Commissioner shall be authorized to collect from the insured a fine of one dollar and fifty cents for each one thousand dollars of excess insurance applied for, in the same manner as other fines and taxes of this Commonwealth are colleected.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 301, entitled "An act to amend section fourteen of an act, entitled 'An act to establish an Insurance Department,' approved the fourth day of April, one thousand eight hundred and seventy-three, as amended by an act, entitled 'A supplement to an act, entitled 'An act to establish an Insurance Department,' approved the twenty-sixth day of April, one thousand eight hundred eighty-seven, providing for the further regulating of foreign insurance companies and relating to agents and others doing business with unauthorized insurance companies and defining penalties therefor.'"

It is directed by this bill that "any person individually and knowingly insuring his own property in an unauthorized foreign insurance company" shall be guilty of a misdemeanor, sentenced to a fine of not less than one hundred dollars or more than one thousand dollars and for a second offense shall be sentenced to pay a like fine and undergo an imprisonment not exceeding one year, or either at the discretion of the court. Making a contract of insurance with a foreign insurance company is not a crime and ought not to be punished as a crime. The power of the State to protect itself from the consequence of foreign insurance companies doing business within it without authority of law is ample and if necessary ought to be exercised. It is a matter, however, between the Commonwealth and these companies over which the individual seeking insurance has no control whatever. For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 21.

AN ACT

Defining Mutual Beneficial Associations and their status; providing for their registration in the office of the Insurance Commissioner, and placing them under his jurisdiction and supervision therein; providing penalties for violation of the provisions of this act, and making certain acts of agents, collectors, physicians and other persons, with reference to such associations, misdemeanors, and providing penalties therefor, and exempting such associations from taxation.

Section 1. Be it enacted, &c., That every corporation now or hereafter formed or organized under the provision of the ninth para-

graph, section two, of the act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved April twenty-ninth, one thousand eight hundred and seventy-four, namely, "The maintenance of a society for beneficial or protective purposes to its members, from funds collected therein," is hereby declared to be a Mutual Beneficial Association. No law hereafter passed shall be applied to such corporations, unless they be expressly designated therein.

Section 2. It shall be lawful for any such association to pay, and to enter into contracts to pay, to each member thereof, money or benefits not exceeding ten dollars per week, in the event of sickness, accident or disability; or to pay not exceeding the sum of two hundred and fifty dollars to the estates, families, heirs, blood-relatives, affianced husband or affianced wife of, or to persons depending upon, the member, in the event of death; or to pay money or benefits, in the event of any or all of such contingencies.

Section 3. Within sixty days after the passage of this act, each corporation of the class designated in the first section of this act, now transacting business within this Commonwealth, and within sixty days after its formation each such corporation hereafter organized, shall file through its proper officers or representatives with the Insurance Commissioner a certified copy of its charter; and annually with its report, as hereinafter provided, any alterations, changes or amendments. It shall be the duty of the Insurance Commissioner to register the same, without charge, in the Insurance Department as a Mutual Beneficial Association; and when so registered, it shall be exempt from any and all taxation imposed by existing laws upon insurance companies reporting to said department.

Section 4. No corporation of the class mentioned in the first section of this act, hereafter organized, shall be registered, as aforesaid, by the Insurance Commissioner until such corporation shall have deposited with the Insurance Commissioner the sum of five thousand dollars in cash or approved securities, which sum the Insurance Commissioner is hereby authorized and empowered to receive; and it shall be his duty to hold the same for the benefit of the members of such corporation and its creditors, preference being given thereto in the following order, to wit: first, claims for benefits; second, salaries of employes; third, general creditors; and all such corporations now in existence, shall, on or before the first day of January, one thousand nine hundred and four, and on or before the first day of January, annually thereafter, deposit with the Insurance Commissioner the sum of two hundred and fifty dollars in cash or approved securities, until the sum of five thousand dollars shall have been deposited with him, as aforesaid. And each such association shall maintain said deposit of five thousand dollars with the Insurance Commissioner so long as it continues to transact business.

Section 5. Upon a compliance with the provisions of sections three and four of this act, by any such Mutual Beneficial Association, the Insurance Commissioner shall issue to it a license to transact business within this Commonwealth; which license shall be revocable by the Insurance Commissioner whenever the condition of such association shall be prejudicial to its members or the public, or whenever it shall fail to comply with this act, or violate any of the

provisions hereof; and no such association shall transact business within this Commonwealth unless it shall have such license from the Insurance Commissioner: Provided, if at any time, upon an examination by the Insurance Commissioner, it shall be found that the available assets of such Mutual Beneficial Association, including the dues or other contributions of its members for the next renewal term of contracts, shall not be sufficient to pay all the probable claims for benefits and current liabilities for such renewal period, it shall be the duty of the Insurance Commissioner to revoke the license granted to such association.

Section 6. The executive officers of each such Mutual Beneficial Association doing business in this Commonwealth shall, on or before the first day of March, one thousand nine hundred and four, and annually thereafter, make a report to the Insurance Commissioner, under oath, of the operations of said association in this Commonwealth for the preceding fiscal year, ending December thirty-first; which report shall be upon a blank furnished by the Insurance Commissioner, and shall be printed as part of his annual report.

Section 7. Any Mutual Beneficial Association failing to comply in all respects with the provisions of this act shall be prohibited from doing business in this State, and the officers of the association violating these requirements shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars for each offense.

Section 8. Any agent, physician or other person who shall knowingly procure, or knowingly cause to be procured, any infirm or unhealthy person to become a member of any such Mutual Beneficial Association, or shall knowingly procure or knowingly cause to be procured, any such person to be reinstated in membership, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars for each offense.

Section 9. Any agent, collector or physician who shall cause to be presented to any such Mutual Beneficial Association a false, dishonest and untrue claim for payment; or any agent or collector who shall falsely represent any such Mutual Beneficial Association, or collect or do business without authority thereof, or secure cash advances by false statements or failure to perform services therefor, or shall fail to turn over, when required, or satisfactorily account for, all collections for or property of any such Mutual Beneficial Association,—shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars for each offense.

Section 10. The funds of all such Mutual Beneficial Associations, complying with the provisions of this act, shall be exempt from State tax on money at interest.

Section 11. The provisions of this act shall not apply to fraternal, benevolent, charitable, or secret societies, issuing beneficial certificates and paying benefits to their membership through the lodge system, or to insurance or relief associations formed by or for the excluseve benefit of employes of corporations or firms, or formed by or for the exclusive benefit of members of any religious corporation or association, but shall only apply to companies employing agents and doing a general public business.

Section 12. All laws and parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 392, entitled "An act defining mutual beneficial associations and their status, providing for their registration in the office of the Insurance Commissioner and placing them under his jurisdiction and supervision therein, providing penalties for violation of the provisions of this act and making certain acts of agents, collectors, physicians and other persons with reference to such associations misdemeanors, and providing penalties therefor and exempting such associations from taxation."

This bill provides "no law hereafter passed shall be applied to such corporations unless they be expressly designated therein." It is impossible for the present Legislature to prevent subsequent Legislatures from exercising the power of legislation whether it be by general terms or by express designation and the attempt ought not to be made. The bill further provides that any physician who shall knowingly procure an infirm person to become a member of a Mutual Beneficial Association shall be guilty of a misdemeanor and upon conviction fined not exceeding $100 for each offense. The word "infirm" is of very uncertain interpretation and if it is to be made the basis for the creation of an offense its meaning ought to be defined in such a way that it cannot be misunderstood. Infirm persons may need the benefits which come from such associations as well as others, and it may well be that the charter of some association may provide for their becoming members of it. In such a case surely it ought not to be made a misdemeanor for a physician to procure an infirm person to become a member.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 22.

AN ACT

Providing a pension of twenty dollars per month for Lavinia McCalley, widow of James B. McCalley.

Section 1. Be it enacted, &c., That from and after the passage of this act, Lavinia McCalley, of Harrisburg, Pennsylvania, widow of James B. McCalley, late captain of Eighth Regiment, Company D, and at the time of his death battalion adjutant of the Eighth Regiment, Third Brigade, National Guard of Pennsylvania, who, during service at the Annual State Encampment, in one thousand nine hundred at Mount Gretna, suffered an attack of traumatic dermatitis, terminating in a crop of boils, from which death resulted the twenty-eighth day of March, one thousand nine hundred and one, shall receive a pension from the State of twenty ($20) dollars per month, payable quartely.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 370, entitled "An act providing a pension of twenty dollars per month for Lavinia McCalley, widow of James B. McCalley."

For the reasons which are set forth fully in the message accompanying House bill No. 188, this bill is not approved.

SAML. W. PENNYPACKER.

No. 23.

AN ACT

Granting a pension to George W. Lightner, of Tyrone township, Perry county, Pennsylvania, late of a company known as the "Curtin Horse Guards," emergency men of one thousand eight hundred and sixty-three, attached to the Twentieth Pennsylvania Cavalry, commanded by Colonel Wyncoop.

Whereas, George W. Lightner, late a private in the "Curtin Horse Guards," emergency men of one thousand eight hundred and sixty-three, attached to the Twentieth Pennsylvania Cavalry, commanded by Colonel Wyncoop, was mustered into the service of the State of Pennsylvania about June fifteen, eighteen hundred and sixty-three, and served in such capacity until the company was discharged on August twelve, eighteen hundred and sixty-three; and,

Whereas, While in the line of duty, on a march in the State of Maryland, in very hot weather, the said George W. Lightner had a sunstroke which rendered him delirious, and required his removal to the hospital. This injury very seriously impaired his hearing, which shortly thereafter was completely destroyed, so that he has been totally deaf for the last thirty years, and is now otherwise enfeebled, and thus by reason of his said military service he has been robbed of the enjoyments of society and his usefulness in life; and,

Whereas, By reason of the length of the term of his service, no pension can be granted him under the existing laws of the United States; therefore,

Section 1. Be it enacted, &c., That the State Treasurer is hereby directed to pay to the said George W. Lightner, of Tyrone township, Perry county, Pennsylvania, a monthly pension, during life, of twelve ($12) dollars, commencing on the first day of January, Anno Domini one thousand nine hundred and three, out of any moneys appropriated for the payment of pensions, or out of any moneys in the treasury not otherwise appropriated.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 429, entitled "An act granting a

pension to George W. Lightner, of Tyrone township, Perry county, Pennsylvania, late of a company known as 'Curtin Horse Guards,' emergency men of one thousand eight hundred and sixty-three, attached to the Twentieth Pennsylvania Cavalry, commanded by Colonel Wyncoop."

For the reasons which are fully set forth in the message accompanying House bill No. 188, this bill is not approved.

SAML. W. PENNYPACKER.

No. 24.

AN ACT

Authorizing the county commissioners, in counties containing more than five hundred thousand inhabitants, to appoint election officers, including election judges, inspector and assessors, in all cases of vacancy from any cause, and regulating the procedure in such cases.

Section 1. Be it enacted, &c., That in all election divisions, in counties of this Commonwealth which now or may hereafter contain more than five hundred thousand inhabitants, where a vacancy exists, by reason of the death, resignation, disqualification, removal from the division, or by the creation of new divisions, or other cause, in an election board heretofore elected or appointed, including the judge of election, majority or minority inspectors of election, and the assessor of election, the county commissioners of said county, upon proof furnished that such vacancy or vacancies exist, shall, at any time before any general, municipal or special election, appoint competent persons, who shall be of good character and qualified electors, actually resident in the division where the vacancy occurs, to fill said vacancy or vacancies, to conduct the election in said districts; and in the appointment of inspectors in any election division, both shall not be of the same political party; and the judge of election shall, in all cases, be of the political party the head of whose ticket received the majority of votes in said district at the last election; and in the case of the disagreement of the county commissioners as to the selection of inspectors, the political majority of the commissioners shall select one of such inspectors, and the minority commissioner or commissioners select the other: Provided, That whenever there is necessarily involved in the appontment of any such election officers a disputed question of law, the decision of the county commissioner as to such question of law shall be subject to review by the courts of common pleas of the proper county.

Section 2. All acts or parts of acts, general, special or local, inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 608, entitled "An act authoriz-

ing the county commissioners in counties containing more than five hundred thousand inhabitants to appoint election officers, including election judges, inspector and assessors in all cases of vacancy from any cause and regulating the procedure of such cases."

For the reasons which are fully set forth in the message accompanying House bill No. 109, this bill is not approved.

SAML. W. PENNYPACKER.

No. 25.

AN ACT

Conferring upon cities of this Commonwealth the right of eminent domain, for the purpose of removing dams, booms or other obstructions from streams flowing through, in or near said cities, and providing for the securing and assessment of damages to the owners of such dams, booms or other obstructions, and prescribing the method of procedure in regard thereto.

Section 1. Be it enacted, &c., That from and after the passage of this act, any and all cities of this Commonwealth, whenever the corporate authorities thereof shall have determined, by ordinance duly passed, that any dam, boom or other obstruction exists in, upon, over or across any stream of water flowing through, within or near the corporate limits of such city, which said dam, boom or other obstruction shall impede, retard or obstruct the natural flow of such stream, so that the proper and natural drainage of such city is obstructed, retarded or impeded; or the streets, lanes or alleys, or either or any of them, are at any time flooded; or the sewers of the said city flooded, or are at any time likely or liable to be flooded; or the flow of sewage therefrom obstructed, retarded or impeded; or the waters of said stream held back, so that the same becomes stagnant, to the detriment of and damage to the lives or health of the inhabitants of said city,—shall have power, and they are hereby authorized and empowered, by themselves, their servants, agents, artisans, employes and workmen, to enter into and upon any such dam, boom or other obstruction, take possession of and remove the same; and for that purpose said cities are hereby invested with the right and power of eminent domain: Provided, That before any such city shall enter upon, take possession of, remove, any such dam, boom or other obstruction, it shall make ample compensation to the owner or owners thereof, or tender adequate security thereof.

Section 2. In all cases where the parties cannot agree upon the amount of damages claimed, or, by reason of the absence of legal incapacity of such owner or owners, no such agreement can be made, for the dams, booms or other obstructions, the city shall tender a bond, with at least two sufficient sureties, to the party claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the city will pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the

parties or assessed in the manner provided for by this act: Provided, That in cases the party or parties claiming damages refuse or do not accept the bond as tendered, the said city shall then give the party a written notice of the time when the same will be presented for filing in the court, or before a justice thereof, at chambers; and thereafter the said city may present said bond to the court of common pleas of the county where the said dams, booms or other obstructions are, or to a judge thereof at chambers, and, if the bond and sureties are approved, the bond shall be filed in said court, for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, if the same be not paid or cannot be made by execution on the judgment in the issue formed to try the question.

Section 3. When the said city cannot agree with the owner or owners of any such dams, booms or other obstructions, for the compensation proper for the damage done or likely to be done, or sustained by, any such owner or owners of such dams, booms or other obstructions, by reason of the removal thereof in pursuance of the authority hereinbefore given; or by reason of the absence or legal incapacity of any such owner or owners, no such compensation can be agreed upon; the court of common pleas of the proper county, or application thereto by petition, either by said city or owner, or owners, or any one in behalf of either, shall appoint seven discreet and disinterested freeholders of said county, neither of whom shall be residents or owners of property in said city, and appoint a time, not less than twenty nor more than thirty days thereafter, for said viewers to meet, at or upon the premises where the damages are alleged to be sustained, at which time and place ten days' notice shall be given by the petitioner to the said viewers and the other party. And the said viewers, or any five of them, having been first duly sworn or affirmed faithfully, justly and impartially to decide, a true report to make concerning all matters and things to be submitted to them, in relation to which they are authorized to inquire in pursuance of the provisions of this act; and, having viewed the premises, they shall estimate and determine the value of the said dams, booms or other obstructions so taken and removed, and the damages sustained or to be sustained by the owner or owners thereof by reason of such taking and removal, and to whom such damages are payable, and make report thereof to the said court, in accordance with the order thereof. And if any damages be awarded, and the report be confirmed by the said court, judgment shall be entered thereon; and if the amount thereof be not paid within thirty days after the entry of such judgment, execution may then issue thereon, as in other cases of debt, for the sum so awarded; and the costs and expenses incurred shall be defrayed by the said city. And each of the said viewers shall be entitled to one dollar and fifty cents for every day necessarily employed in the performance of the duties herein prescribed, to be paid by such city.

Section 4. It shall be the duty of the court, having jurisdiction of the appointment of viewers and assessment of damages, at the time of the application for the appointment of viewers, to appoint a guardian ad litem or trustee, as the circumstances of the case shall require, for such interested party who is absent, unknown, not

of full age or of unsound mind, or from any cause cannot be bargained with or served with notice, or have a bond tendered to them; and such guardian ad litem or trustee shall represent the interests of the person of whom he is guardian ad litem or trustee in all the subsequent proceedings.

Section 5. The viewers provided for by this act may be appointed before or after the removal or destruction of said dams, booms or other obstructions; and upon the report of said viewers, or any four of them, being filed in said court, either party shall have the right to file exceptions thereto, for a period of ten days from the date of such filing, and the court, or law judge thereof, may grant additional time for filing such exceptions on reasonable cause shown. And after such exceptions shall have been finally disposed of by the court, either party, within thirty days thereafter, may file his, her or their appeal from said report to said court of common pleas. After such appeal, either party may put the cause in issue, in the form directed by said court, and the same shall then be tried by said court and a jury; and after final judgment, either party may have an appeal therefrom to the Supreme or Superior court, in the manner prescribed in other cases. The said court shall have power to order what notices shall be given, connected with any part of the proceedings, and may make all such orders connected with the same as may be deemed requisite.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No 616, entitled "An act conferring upon cities of this Commonwealth the right of eminent domain for the purpose of removing dams, booms or other obstructions from streams flowing through, in or near said cities and providing for the securing and assessment of damages to the owners of such dams, booms or other obstructions and prescribing the method of procedure in regard thereto."

The bill provides that any and all cities of this Commonwealth whenever their corporate authorities have determined by ordinance "that any dam, boom or other obstruction exists in, upon, over or across any stream of water flowing through, within or near the corporate limits of such city, which said dam, boom or other obstruction shall impede or retard the natural flow of such stream" the cities with their employes and workmen may enter upon any such dam, boom or other obstruction, take possession of it and remove it and for the purpose gives the power of eminent domain. This bill, if it became a law, would grant to the cities a most dangerous power. The power is given to remove not an obstruction within the limits of the municipality, but an obstruction upon any stream of water which flows near the corporate limits. With the city authorities rests the power to determine whether the obstruction impedes the natural flow of the stream. The foundations of a bridge may be an obstruction and a dam certainly would constitute an obstruction. Under this bill, therefore, since the Delaware

river flows near the city of Philadelphia, that city would be permitted to remove any dams which may exist upon the river. The Susquehanna river flows near the city of Harrisburg. Under this bill that city would be permitted to remove all the railroad bridges which cross the river.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 26.

AN ACT

To amend an act, entitled "An act to carry out the provisions of section twelve, article three, of the Constitution, in relation to the public printing and binding, and the supply of paper therefor.

Section 1. Be it enacted, &c., That section one of an act, entitled "An act to carry out the provisions of section twelve, article three, of the Constitution, in relation to the public printing and binding, and the supply of paper therefor," which reads as follows:

"Section 1. Be it enacted, &c., That on the fourth Tuesday of January, one thousand eight hundred and seventy-seven, and on the fourth Tuesday of January of every fourth year thereafter, the Secretary of the Commonwealth shall receive proposals for executing the public printing and binding for the term of four years from the first day of July following, at a certain rate per centum below the rates specified in this act, and the said Secretary of the Commonwealth shall, at twelve o'clock meridian of said day, open all the proposals received in the presence of those bidding, and shall proceed publicly to allot all the printing and binding aforesaid to the person or persons who may propose to execute the same at the highest rate per centum below the rates fixed by the schedule annexed to this act, the allotment to be approved by the Governor, Auditor General and State Treasurer, and to be of no validity unless approved by them. Each bidder shall accompany his or their proposal with a bond to the Commonwealth, with at least two sufficient sureties in the sum of fifteen thousand dollars, conditioned for the acceptance of the contract and faithful performance of the work in the manner provided for in this act, if allotted to him or them; said bonds shall have endorsed thereon and annexed thereto the certificate of the president or additional law judge of the district or districts in which such sureties may reside, or in case of the absence or other inability of such president and additional law judge, with the certificate of the associate judges of the county or counties in which such sureties may respectively reside, that said bond and sureties are sufficient to secure the Commonwealth to the amount of the penalty thereof; and said bond shall contain the further condition, that in case the contract is awarded to the person or persons bidding at his or their bid, and the said person or persons refuse or neglect to accept the same, he or they, with his or their sureties aforesaid, shall be liable to the

Commonwealth for the difference between the amount of such bid and the amount of the bid of the person or persons to whom the printing and binding shall be awarded, after such neglect or refusal, as provided in the third section of this act," be and the same is hereby amended to read as follows:

Section 1. That on the fourth Tuesday of March, one thousand nine hundred and five, and on the fourth Tuesday of March of every fourth year thereafter, the Secretary of the Commonwealth shall receive proposals for executing the public printing and binding for the term of four years from the first day of July following, at a certain rate per centum below the rates specified in this act; and the said Secretary of the Commonwealth shall, at twelve o'clock meridian of said day, open all the proposals received, in the presence of those bidding, and shall proceed publicly to allot all the printing and binding, aforesaid, to the person or persons who may propose to execute the same at the highest rate per centum below the rates fixed by the schedule annexed to this act; the allotment to be approved by the Governor, Auditor General, and State Treasurer, and to be of no validity unless approved by them. Each bidder shall accompany his or their proposal with a bond to the Commonwealth, with at least two sufficient securities, in the sum of fifteen thousand dollars, conditioned for the acceptance of the contract and faithful performance of the work in the manner provided for in this act, if not alloted to him or them; said bond shall have endorsed thereon and annexed thereto the certificate of the president or additional law judge of the district or districts in which such securities may reside, or in case of absence or other inability of such president and additional law judge, with a certificate of the associate judges of the county or counties in which such sureties may respectively reside, that such bond and sureties are sufficient to secure the Commonwealth to the amount of the penalty thereof; and said bond shall contain the further conditions, that in case the contract is awarded to the person or persons bidding, at his or their bid, and the said person or persons refuse or neglect to accept the same, he or they, with his or their sureties aforesaid, shall be liable to the Commonwealth for the difference between the amount of such bid and the amount of the bid of the person or persons to whom the printing and binding shall be awarded after such neglect or refusal, as provided in the third section of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 640, entitled "An act to amend an act, entitled "An act to carry out the provisions of section twelve, article three, of the Constitution, in relation to the public printing and binding and the supply of paper therefor.' "

The purpose of this bill is to amend the act relating to public printing. It provides that "each bidder shall accompany his or their proposal with a bond to the Commonwealth with at least two sufficient securities in the sum of fifteen thousand dollars, con-

ditioned for the acceptance of the contract and faithful performance of the work in the manner provided for in this act if not alloted to him or them. Said bond shall have endorsed thereon and annexed thereto the certificate of the president or additional law judge of the district or districts in which such securities may reside. * * * That said bond and sureties are sufficient to secure the Commonwealth to the amount of the penalty thereof." The use of the word "not" nullifies the whole provision. It may be added that securities do not reside.

SAML. W. PENNYPACKER.

No. 27.

AN ACT

To regulate the manufacture and sale of alum baking-powders, and providing penalties for violation thereof.

Section 1. Be it enacted, &c., That every person or firm manufacturing baking-powder or any admixture or compound intended for sale as a baking-powder, or whoever shall sell, exchange or deliver, or have in his or her possession with the intent to sell or exchange, such baking-powder or any admixture or compound intended for use as a baking-powder, which contains alum in any form or shape, unless the presence therein of alum be distinctly shown by a label on the outside of the package containing said baking-powder, and on the face of which is printed with black ink, in legible type not smaller than small pica or heavy gothic caps, the full name and address of the manufacturer and the following words, "this baking-powder contains alum," shall be deemed guilty of a misdemeanor.

Section 2. Any person or persons violating any provisions of this act shall be punished by a fine not exceeding fifty dollars for the first offense, and one hundred dollars for any subsequent offense.

Section 3. The fines imposed shall be paid into the State Treasury, to be kept as a separate and distinct fund, set apart for the use of the Dairy and Food Commissioner for the enforcement of this act; the said Dairy and Food Commissioner being hereby fully charged with the enforcement of this act, through the power conferred upon him by the provisions of the act by which he received his appointment.

Section 4. This act shall take effect on the first day of October, one thousand nine hundred and three.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 728, entitled "An act to regulate the manufacture and sale of alum baking powders and providing penalties for violation thereof."

This bill makes it a misdemeanor subject to a fine of $100 for any person to manufacture or sell baking powder which contains alum in any form or shape unless there be printed on a label on the outside of the package in black ink in legible type, not smaller than small pica, the full name and address of the manufacturer and the words "this baking powder contains alum." It is evident that the passage of this bill was secured by the manufacturer or vender of some rival baking powder with intent to obtain an unfair advantage. It is evident from the fact that the conspicuous printing of these words would be likely to deter purchasers. It would be entirely proper to require that all baking powders should have upon the outside of the package a label describing the ingredients and their quantities, but it would be manifestly unjust to require one ingredient to be displayed without any reference to quantity.

SAML. W. PENNYPACKER.

No. 28.

AN ACT

Granting a pension to William H. Engle, a private in Captain William C. Ermentrout's independent company of artillery, also the Pennsylvania Volunteer Militia, commanded by William Geiger, of Reading, Pennsylvania.

Whereas, William H. Engle, a private of company —, commanded by Captain William Geiger, in the Twentieth regiment, Pennsylvania Volunteer Militia, called out by the proclamation of Governor Andrew G. Curtin, September fifth, Anno Domini one thousand eight hundred and sixty-two, while with his company and regiment on the railroad train running from Carlisle to Harrisburg, Pennsylvania, in consequence of a collision of cars had his neck strained, in consequence of which the same was injured to such an extent as to render him unfit for manual labor; therefore,

Section 1. Be it enacted, &c., That the State Treasurer be and is hereby directed to place the name of the said William H. Engle on the list of pensioners, at the rate of eight dollars ($8.00) per month, commencing from the date of the passage of this act, to continue during his natural life.

Section 2. That the State Military Board is hereby directed to examine the claim of the said William H. Engle, of the Twentieth regiment, Pennsylvania Volunteer Militia; and if the State Military Board finds the claim herein stated to be true and correct, the said board shall so certify to the Auditor General, who shall issue warrants for same, and it shall be paid out of any moneys in the State Treasury not otherwise appropriated.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 722, entitled "An act granting a

pension to William H. Engle, a private in Captain William C. Ermentrout's independent company of artillery, also the Pennsylvania Volunteer Militia commanded by William Geiger, of Reading, Pennsylvania."

For the reasons which are fully set forth in the message accompany House bill No. 188, this bill is not approved.

SAML. W. PENNYPACKER.

No. 29.

A FURTHER SUPPLEMENT

To an act, entitled "An act to provide revenue by taxation," approved June seven, one thousand eight hundred and seventy-nine.

Section 1. Be it enacted, &c., That hereafter every appeal from an account for taxes settled by the Auditor General shall be accompanied by an affidavit that the same is not intended for delay.

Section 2. That from and after the passage of this act, every person, partnership, firm or unincorporated association doing the business of private bankers in this Commonwealth, shall annually, upon the first Monday in December, make report to the Auditor General, under oath or affirmation, setting forth the full amount of the gross receipts of such person, partnership, firm or unincorporated association, arising from his, their or its business of private banking, during the preceding year, and shall pay into the State Treasury, for the use of the Commonwealth, a tax of twelve and one-half mills upon the gross amount of such receipts; which report and tax shall be in lieu of all other reports of and taxes upon their receipts, business and assets, in so far as the same are derived from or relate to their business as private bankers: Provided, That nothing herein contained shall be construed to relieve such real estate as may be owned by them, or any of them, from the taxation to which said real estate would otherwise be subject.

Section 3. In the event that any person, partnership, firm or unincorporated association, subject to the provisions of the second section of this act, shall neglect or refuse to make the report required by the second section hereof, within thirty days after the thirty-first day of December, in each year, such person, partnership, firm or unincorporated association shall be liable to a penalty of ten per centum for such neglect, which shall be added to the amount of tax due on the settlement of his, their or its account.

Section 4. That all laws or parts of laws inconsistent herewith shall be and the same are hereby repealed, saving, reserving and excepting unto the Commonwealth the right to collect any taxes, accrued or accruing under the said laws of any of them prior to the date of the approval of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 23, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 543, entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved June seventh, one thousand eight hundred and seventy-nine."

This bill provides "that from and after its passage every person, partnership, firm or unincorporated association doing the business of private bankers in this Commonwealth, shall annually report to the Auditor General under oath the full amount of the gross receipts of such person, partnership, firm or unincorporated association arising from his, their or its business of private banking during the preceding year, and shall pay into the State Treasury for the use of the Commonwealth a tax of twelve and one-half mills upon the gross amount of such receipts, which report and tax shall be in lieu of all other reports of and taxes upon their receipts business and assets in so far as the same are derived from or related to their business as private bankers, provided that nothing herein contained shall be construed to relieve such real estate as may be owned by them or any of them from taxation to which said real estate would otherwise be subject," and any neglect or refusal to make the report required shall subject the offender to a penalty of ten per centum for such neglect, which shall be added to the amount of tax due on the settlement of the account. All laws or parts of laws inconsistent therewith are repealed, saving to the Commonwealth the right to collect any taxes accrued or accruing under existing laws.

If it were the serious purpose of this bill to increase the revenues of the State it would be difficult to understand why private bankers should be singled out as the sole object of the increased tax of two and one-half mills upon their gross business receipts, particularly as by the recent act of 13th of June, 1901, the license tax was changed from a tax of three per centum upon net receipts to a tax of one per centum upon gross receipts. The increase in revenue is so slight from the adoption of a twelve and one-half mills tax in lieu of a ten mills tax, and the scope of the bill is so narrow in making private bankers alone the object of legislative attention as to suggest the question what is the real purpose of the measure?

In order to appreciate fully the true nature of this bill, it is well to observe that at the present time private bankers pay a license tax of one per centum or ten mills upon the aggregate amount of their gross receipts from commissions, discounts, abatements, allowances and all other receipts from their business. They also pay a property tax of four mills upon personal property owned by them whether consisting of mortgages, judgments, bonds or moneys at interest. The first tax is paid directly to the State and is a substitute for the thirty mills tax previously imposed upon the net profits of the business by the act of 27th of June, 1895. This tax has been held by the Supreme Court to be a tax on the privilege of

engaging in the banking business. The second tax is a property tax of four mills, by the act of June 1, 1889, as amended by the act of 8th of June, 1891, upon bankers not as bankers, but as property owners, and falls alike upon the owners of property in the State, irrespective of the character of their business. It is not paid directly to the State, but is collected by county officers, who remit the amount to the State Treasurer, and receive in return three mills in relief of local taxation, while one mill is retained by the State.

In the case of Commonwealth vs. McKean county, 200 P. S., 283, an effort was made by private bankers to have the courts hold that, under the law as above stated, private bankers were subject to double taxation. The Supreme Court, affirming the lower court, refused to so hold, pointing out that if such a construction prevailed, he who lent money as a banker would enjoy an exemption from property taxation denied to every other person, natural or artificial, in the Commonwealth, and that, if the payment of a license tax on the net earnings of an individual doing business as a banker should exempt him from property taxation on moneys loaned, there would then be an inequality not dreamed of by the Legislature, to say nothing of the absence of any such intention in the acts providing for the State revenues. Illustrations of this inequality and injustice were stated in figures.

It is clear that the purpose of the present bill is to destroy the effect of this decision of the Supreme Court. If the present act should be approved, private bankers would be relieved of the personal property tax upon all securities held or owned by them or moneys loaned by them at interest. This conclusion follows from the language of the latter part of section two, by which it is provided that the proposed tax of twelve and one-half mills upon the gross amount of business receipts "shall be in lieu of all other taxes upon their receipts, business and assets, in so far as the same are derived from or relate to their business as private bankers." The personal property constituting the capital of a private banker is unquestionably related to his business, and there is nothing in the language used to limit its operation to a license tax. The effect of the act is not simply to increase the license tax from ten mills upon gross business receipts to twelve and one-half mills. It goes farther in the provision that the tax laid "shall be in lieu of all other taxes upon business receipts and assets in so far as the same are derived from or relate to" the private business of banking. This language is broad enough to include the personal property of the banker, if in any way related to his business.

The purpose of the act is made still further manifest by the proviso which declares "that nothing therein contained shall be construed to relieve such real estate as may be owned by a private banker from taxation to which such real estate would be otherwise subject." Clearly, the real estate owned by a private banker is not the subject of a license tax. The proviso points clearly to property owned by the banker, and in seeking to limit the effect of the clause, by excluding the real estate owned by the banker from its operation, it in effect declares that the proper interpretation of the act shall be such as to relieve all property other than real estate owned by the banker from taxation. This would be to introduce the very

inequality and injustice animadverted upon by the Supreme Court in the decision hereinbefore referred to.

For these reasons the bill is disapproved.

SAML. W. PENNYPACKER.

No. 30.

AN ACT

Granting an honorable recognition to George Lewis Gussman, for meritorious service rendered in the United States Government during the Civil war.

Whereas, George Lewis Gussman, of Newville, Cumberland county, Pennsylvania, at the age of ten years, rendered meritorious service to the United States, as a soldier with company I, Ninth Pennsylvania Volunteer Cavalry; although not being regularly mustered in, being on duty, his horse being shot, he was captured at Thompkinsville, July nine, one thousand eight hundred and sixty-two, and again entered the service of the United States, August, one thousand eight hundred sixty-four, with company F, Two Hundred and Seventh Pennsylvania Volunteer Infantry, with which he remained until the close of the war.

Section 1. Be it enacted, &c., That a medal be granted to George Lewis Gussman, as an honorable recognition for meritorious service rendered to the United States Government during the Civil war, while serving with company I, Ninth Pennsylvania Volunteer Cavalry, and company F, Two Hundred and Seventh Pennsylvania Volunteer Infantry; he not being mustered into service, yet performing actual duty as a soldier to the close of the war.

Commonwealth of Pennsylvania,
Executive Deparament,
Harrisburg, April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 721, entitled "An act granting an honorable recognition to George Lewis Gussman for meritorious service rendered in the United States Government during the Civil war."

This bill directs that a medal be granted to George Lewis Gussman who "at the age of ten years rendered meritorious service to the United States as a soldier" in 1862 and "again entered the service of the United States" in 1864 and remained until the close of the war. There is no designation of what metal or substance the medal is to be composed or what it is to cost or what inscription, if any, is to be put upon it. If statements of fact are to be made in an act of Assembly concerning services in a war which occurred over forty years ago, there ought to be some means provided for ascertaining their accuracy. It is difficult to understand how a boy

of ten years of age could have been a soldier or how he could have entered into the service of the United States in that capacity. Although the act sets forth that he performed "actual duty as a soldier to the close of the war," the statement with respect to one of his age, leads to a query.

SAML. W. PENNYPACKER.

No. 31.

AN ACT

To convey and quiet the possession of land formerly belonging to a borough in a property holder, where the same has been in possesion of property holder not less than fifty years.

Section 1. Be it enacted, &c., That where any ground, not over five feet in width or seventy feet in length, formerly a part of a public street or square of an incorporated borough of this Commonwealth, has been in the uninterrupted and peaceable possession of a property holder or property holders for a period of not less than fifty years, and where the same has been continuously fenced in with the lot of the adjoiner or adjoiners for a period of not less than fifty years, and where such fence is in line with the building line and present general plan and contour of the street and square, and where the pavement abutting or fronting thereon is of full regulation width, and the gutter and curb lines of the same are in conformity with the gutter and curb lines of the street or square, in every such case such ground shall, immediately upon the passage of this act, vest absolutely and in fee simple in such abuttor or abuttors, who shall enjoy peaceable and undisturbed possession of the same forever.

Section 2. All laws and parts of laws inconsistent herewith shall be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg April 23, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 563, entitled "An act to convey and quiet the possession of land formerly belonging to a borough in a property holder where the same has been in possession of property holder not less than fifty years."

This bill provides that where any ground not over five feet in width or seventy feet in length formerly a part of a public street or square of an incorporated borough has been in the interrupted possession of the property holder or property holders for a period of not less than fifty years," "such ground shall immediately upon the passage of this act vest absolutely and in fee simple in such abuttor or abuttors." Under the guise of a general act this is plain-

ly special legislation intended to apply to a particular case. The questions which arise may well be left to the court of the proper county for their determination if necessary.

SAML. W. PENNYPACKER.

No. 32.

AN ACT

Limiting the time in which actions of trespass for libel must be brought to issue.

Section 1. Be it enacted, &c., That all actions of trespass for libel, now pending or hereafter to be instituted, shall be brought to issue within two years next after the time when the cause of action has arisen, on which the suit is based, and in default thereof judgment of non pros shall be entered by the prothonotary, as of course, upon praecipe filed: Provided, however, That in no pending action shall a non pros be entered until after the expiration of six calendar months from the date of the passage of this act.

Section 2. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 25, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 378, entitled "An act limiting the time in which actions of trespass for libel must be brought to issue."

This bill provides that all actions of trespass for libel "shall be brought to issue within two years next after the time when a cause of action has arisen on which the suit is based and in default thereof judgment of non pros shall be entered by the prothonotary as of course." Statutes of limitation ordinarily limit the time within which suit may be brought after the cause of action has arisen. The reason is that the bringing of the suit is entirely within the control of the plaintiff and if he neglects to act promptly he suffers because of his own default. This bill proposes to go much further. It provides that the cause must be at issue within a certain length of time after the cause of action has arisen. Getting the cause at issue after suit has been brought is as much within the control of the defendant as of the plaintiff. It is within the power of the defendant by demurrer to the statement by taking rules for a more specific statement and appeals to postpone the reaching of issue for an indefinite period. It would be unjust to punish the plaintiff by entering judgment against him if the delay should be caused by the defendant.

There is another serious objection to this bill. It directs the prothonotary to enter judgment. The prothonotary is only the clerk of the court. The court alone has power to enter judgment.

When the prothonotary makes the entry he does it simply as the agent of the court. Legislation of this character, therefore, if necessary ought to be directed to the court and not to its clerk. There is a probability that this bill was intended to affect some cause which is now pending.

For these reasons, the bill is not approved.

SAML. W. PENNYPACKER.

No. 33.

AN ACT

Requiring the entire amounts of license moneys for the sale of vinous, spirituous, malt and brewed liquors to be paid to the county treasurer, and regulating his compensation for receiving and disbursing the same, including certain license moneys heretofore received by such treasurer.

Section 1. Be it enacted, &c., That all persons licensed to sell any vinous, spirituous, malt or brewed liquors, or any admixture thereof, shall pay the entire amount of such license moneys to the treasurer of the proper county, which license moneys shall be distributed by the county treasurer to the Commonwealth and the proper municipalities in the proportions to which they are entitled by law.

Section 2. That the present, past and future treasurers of the several counties of the Commonwealth, who shall hereafter receive such license moneys or who now have in their possession any part thereof, shall be entitled to retain and appropriate therefrom, to their own use, commissions on the amounts heretofore received or that may hereafter be received by them for such license moneys and distributed to the Commonwealth and the proper municipalities, as they are now authorized to retain by law out of the moneys returned by them to the Commonwealth: Provided, That the provisions of this act shall not apply to counties having a population of more than one million two hundred thousand.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 25, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 81, entitled "An act requiring the entire amounts of license moneys for the sale of vinous, spirituous and brewed liquors to be paid to the county treasurer and regulating his compensation for receiving and disbursing the same including certain license moneys heretofore received by such treasurer."

Section two of this bill directs "that the present, past and future treasurers of the several counties of the Commonwealth who shall hereafter receive such license moneys or who now have in their possession any part thereof shall be entitled to retain and appropriate therefrom to their own use commissions on the amounts here-

tofore received or that may hereafter be received by them for such license moneys and distributed to the Commonwealth and the proper municipalities as they are now authorized to retain by law out of the moneys returned by them to the Commonwealth." It is impossible to get from these words any clear thought as to what is intended to be accomplished. The county treasurers are to receive commissions, but what is to be the amount of these commissions is uncertain. The construction would appear to be that county treasurers who now have in their possession moneys paid to them for licenses may retain from those moneys certain commissions upon moneys heretofore paid to the Commonwealth from receipts for licenses. If this be the proper construction, then it would work an injustice. Those treasurers who have promptly paid over to the Commonwealth the moneys received for licenses and who, therefore, have no moneys in their possession would get no commissions and those who have been more dilatory and who still retain some of such moneys would get commissions. The construction would also seem to be that the county treasurers are entitled to retain out of moneys now in their possession commissions upon moneys for licenses "that may hereafter be received." If this be a correct interpretation, the bill ought not to become a law for the reason that the treasurers ought not to be permitted to retain in their hands moneys due to the Commonwealth in order that they may secure commissions upon license moneys yet to be received.

For these reasons, the bill is not approved.

SAML. W. PENNYPACKER.

No. 34.

AN ACT

To provide for the protection and preservation of bear and cubs, and prescribing penalties for the violation of this act.

Section 1. Be it enacted, &c., That it shall not be lawful for any person or persons, after the passage of this act, to catch, take or kill in this State, or, except as hereinafter provided, have in his or her possession or under his or her control, after the same shall have been so caught, taken or killed, and bear or cub, save during the month of November of each year. No person or persons shall make use of dog or dogs, trap or traps, pen or pens, or any other device except fire arms, in the catching, taking or killing of bear or cubs within this State. Whosoever shall offend against any of the provisions of this act shall be liable to a penalty of one hundred dollars for each offence so committed, or by imprisonment in the county jail for a period of one day for each dollar of penalty imposed. Any dog or dogs pursuing any bear or cub, or killing the same, or following upon the track of any bear or cub, are hereby declared a public nuisance, and may be killed by any person when so seen, and the owner of such dog or dogs shall have no recourse at law, whatsoever.

Section 2. Any trap or traps, pen or pens, device or devices, found set, sprung or baited, and located in any wood or wood-lot inhabited by bear or cubs, within this State, may be taken and destroyed by any person or persons finding the same so set, sprung or baited, and the owner or owners thereof shall have no recourse at law, whatsoever.

Section 3. Nothing in this act shall be construed to prohibit the sale of bear or cub-hides, between the first day of November and the tenth day of December of each year: Provided, however, That the bear or cub from which said hide is taken has not been killed in violation of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 25, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections, House bill No. 739, entitled "An act to provide for the protection and preservation of bear and cubs and prescribing penalties for the violation of this act."

A well considered bill to prevent a ruthless and wanton destruction of bears and cubs would no doubt answer a public need, but the present bill is entirely too sweeping and too stringent in its provisions. It is directed "that it shall not be lawful for any person or persons after the passage of this act to catch, take or kill in this State, or, except as hereinafter provided, have in his or her possession or under his or her control after the same shall have been so caught, taken or killed, any bear or cub save during the month of November." The bear is an animal not always of a gentle disposition and especially if it be a female bear with cubs. If a wanderer in the woods is attacked by such a bear in some other month than November what is he or she to do. Bears are sometimes the aggressors and prove to be injurious to the crops and the sheep pens of the farmer. Is he not to be permitted to protect his property save in the month of November? The bill provides that no bear is to be killed excepting with fire arms. Should the woodsman be attacked by a bear while cutting down trees in the woods, may he not use his ax? The bill provides that any dog following upon the track of a bear is declared to be a public nuisance and "may be killed by any person when so seen and the owner of such dog or dogs shall have no recourse at law whatsoever." This provision would necessarily lead to collisions and breaches of the peace. The courts of law ought always to be open for a determination of all questions whether relating to dogs or bears which may properly come before them.

The bill further provides that any trap which may be found set in any wood inhabited by bears or cubs may be taken and destroyed by any person or persons "and the owner or owners thereof shall have no recourse at law whatsoever." This provision would also necessarily lead to breaches of the peace if construed to mean what it says. A trap set for a rabbit or any other animal in a wood where there are bears may under the bill be destroyed by any person. For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 35.

AN ACT

Authorizing the boards of commissioners of townships of the first class to enact ordinances for the preservation of the public health.

Section 1. Be it enacted, &c., That the several boards of commissioners of townships of the first class, within this Commonwealth, shall have full power and authority to enact ordinances to prevent the introduction and spread of infectious or contagious diseases; by the regulation of intercourse with infected places, by the arrest, separation and treatment of infected persons and persons who shall have been exposed to any infectious or contagious disease, and by abating and removing all nuisances which they shall deem prejudicial to the public health; to enforce vaccination, to mark infected houses or places, to prescribe rules for the construction and maintenance of house-drains, waste-pipes, soil-pipes and cesspools; and, bu such ordinances, to make all such other regulations as they shall deem necessary for the preservation of the public health; and shall also have the power to approve and enact, as ordinances of such townships, all rules and regulations of the school boards of and townships relating to sanitary measures, and to fix penalties, by fine not exceeding ten dollars, or imprisonment not exceeding thirty days, for the violation of any of the sections of said ordinances; which penalties, as well as costs and expenses necessarily incurred in carrying the same into effect, shall be recoverable for the use of the said townships in the same manner as penalties of like amounts are now recoverable.

Any and all acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 25, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 731, entitled "An act authorizing the boards of commissioners of townships of the first class to enact ordinances for the preservation of the public health."

This bill gives to the boards of commissioners of townships along with other large powers, the authority to prevent the introduction and spread of infectious or contagious diseases, to enforce vaccination, to make all other regulations they shall deem necessary for the preservation of the public health, and to fix penalties by fine or imprisonment for the violation of such rules and regulations as they may enact. The provisions with respect to the maintenace of the public health would seem to be such as should properly come within the province of boards of health, who are or ought to be selected with a view to their having professional or technical skill and knowledge. It may well be doubted whether the boards of commissioners have the information which would enable them to exercise these powers properly and for the good of the public. Whether or not this view be correct, it is certain that they ought

not to be given authority to determine questions of imprisonment That power should be left to the courts.

SAML. W. PENNYPACKER.

No. 36.

AN ACT

To amend an act to fix the salaries to be paid county officers in counties containing over five hundred thousand inhabitants and less than eight hundred thousand inhabitants, by fixing the salaries of county engineers and deputy county surveyors, being a supplement to an act approved the second day of June, one thousand eight hundred and eighty-seven, entitled "A further supplement to an act, entitled 'An act to carry into effect section five of article fourteenth of the Constitution, relative to the salaries of the county officers, and the payment of fees received by them into the State or county treasury, in counties containing over one hundred and fifty thousand inhabitants,'" approved the thirty-first day of March, Anno Domini one thousand eight hundred and seventy-six; authorizing the appointment and fixing the salary of the deputy county surveyor.

Section 1. Be it enacted, &c., That that part of section one in the act of June second, one thousand eight hundred and eighty-seven, relating to the offices of county engineer and deputy county surveyor, which reads as follows, namely:

"The salary of the county engineer, where such office exists, twenty-five hundred dollars: Provided, That where the office of county surveyor and county engineer are held by the same person, he shall receive the salary of the county engineer only, and shall have authority to appoint a deputy, whose annual salary shall be eighteen hundred dollars, to be paid out of the county fund in like manner as county officers are now paid; and said deputy shall be subject to removal by said surveyor and engineer," be and the same is hereby amended so that the same shall read as follows:

The salary of the county engineer, where such office exists, four thousand dollars: Provided, That where the office of county surveyor and county engineer are held by the same person, he shall receive the salary of the county engineer only; and shall have authority to appoint a deputy, whose annual salary shall be twenty-five hundred dollars, to be paid out of the county fund in like manner as county officers are now paid, and said deputy shall be subject to removal by said surveyor and engineer.

Section 2. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 25, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 762, entitled "An act to amend 'An act to fix the salaries to be paid county officers in counties containing over five hundred thousand inhabitants and less than eight

hundred thousand inhabitants by fixing the salaries of county engineers and deputy county surveyors,' being a supplement to an act approved the second day of June, one thousand eight hundred and eighty-seven, entitled 'A further supplement to an act, entitled 'An act to carry into effect section five of article fourteenth of the Constitution relative to the salaries of the county officers and the payment of fees received by them into the State or county treasury in counties containing over one hundred and fifty thousand inhabitants,' approved the thirty-first day of March, Anno Domini one thousand eight hundred and seventy-six, authorizing the appointment and fixing the salary of the deputy county surveyor."

It appears from an examination of the bill that it is an attempt to amend section one of the act of June 2, 1887, P. L., page 301, which is an act relating to the salary of the county engineer in counties containing over 150,000 inhabitants. The title to the bill describes it as an act to amend an act fixing the salaries to be paid county officers in counties containing over 500,000 inhabitants and less than 800,000 inhabitants, and, therefore, fails utterly to designate the purpose of the bill.

SAML. W. PENNYPACKER.

No. 37.

AN ACT

Providing for the employment of a chief draftsman in the Department of Internal Affairs of Pennsylvania, and fixing salary therefor.

Section 1. Be it enacted, &c., That from and after the final passage of this act, the Secretary of Internal Affairs is authorized to employ one chief draftsman, who shall also be a practical land surveyor, in said Department, at a salary of not exceeding the sum of twenty-four hundred dollars per annum.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, Senate bill No. 353, entitled "An act for the employment of a chief draftsman in the Department of Internal Affairs of Pennsylvania, and fixing the salary therefor."

The needs of the Department in the matter of the employment of a chief draftsman, who shall also be a practical land surveyor, have been already provided for in House bill No. 714, heretofore approved, at a salary of two thousand dollars. This act is, therefore, unnecessary.

SAML. W. PENNYPACKER.

No. 38.

AN ACT

To establish a Division of Horticulture in the Department of Agriculture, to provide for the appointment of a Commissioner of Horticulture and a clerk, and to fix their salaries.

Section 1. Be it enacted, &c., That there be and is hereby established in the Department of Agriculture a Division of Horticulture, to be administered under the direction of the Secretary of Agriculture, by an officer to be known as the Commissioner of Horticulture, who shall be appointed by the Governor, for a term of four years, at a salary of twenty-five hundred dollars a year. There shall also be a clerk, who shall also be appointed by the Governor, to serve under the direction of the Commissioner, and who shall receive a salary of fifteen hundred dollars a year.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 326, entitled "An act to establish a Division of Horticulture in the Department of Agriculture, to provide for the appointment of a Commissioner of Horticulture and a clerk, and to fix their salaries."

This bill presents but the skeleton of an important measure. It is vague and lacking in details. The term "Horticulture" is of wide import, and it is uncertain of meaning as used in this bill. The scope and character of the duties to be assigned the Division of Horticulture are not defined, nor are the duties of the Commissioner of Horticulture defined. It is not clear that the matter is not already sufficiently provided for under the present acts relating to the Department of Agriculture. The bill in effect creates an office, gives the officer a name, fixes an official salary, provides for a clerk, and gives the clerk a salary, without specifying what the services are for which the salaries shall be paid.

SAML. W. PENNYPACKER.

No. 39.

AN ACT

To authorize the courts of common pleas and the orphans' courts of, in and for the Commonwealth of Pennsylvania to appoint and remove trustees.

Section 1. Be it enacted, &c., That where any trust now either by deed, will or parol, or shall be hereafter created either by deed, will or parol, it shall be competent for the respective courts of com-

mon pleas, or the respective orphans' courts, in and for the Commonwealth of Pennsylvania, having jurisdiction of the accounts of said trustees, upon cause shown, and in the exercise of a sound judicial discretion, to remove the acting trustees and appoint such successor or successors as may be deemed fit; and such successor or successors shall have all the powers to execute said trusts as have been conferred by the instrument creating the trust, or by law appertaining to the office of trustee, upon security being approved by the court and entered by said appointees as directed by the said court appointing them.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 30, entitled "An act to authorize the courts of common pleas and the orphans' courts of, in and for the Commonwealth of Pennsylvania to appoint and remove trustees."

This bill, as it finally passed the Senate and House, is so totally different in substance from the bill as introduced into the House as to suggest the thought that the original measure was considered vicious. Furthermore, its original purpose appears to have been to meet and counteract the effect of the decision of the Supreme Court in Neafie's Estate, 199 P. S. Reports, 307. In its present shape the bill is perfectly harmless. It is doubtful whether it imposes any new duty upon the judges of the courts of common pleas and the orphans' courts and still further doubtful whether it confers any powers which they did not already possess. I view it as an unnecessary piece of legislation. Moreover, it is unfortunate that in the amendment of the bill an important word has been omitted, which is necessary to the expression of the sense of the first clause.

SAML. W. PENNYPACKER.

No. 40.

AN ACT

Supplementary to an act, approved June eighteenth, one thousand eight hundred and ninety-five, entitled "An act to prevent physicians and surgeons from testifying in civil cases to communications made to them by their patients," amending the first section thereof, extending its provisions to proceeding for divorce and in equity, and other proceedings in courts of law and in equity of the Commonwealth.

Section 1. Be it enacted, &c., That the first section of the act, entitled "An act to prevent physicians and surgeons from testifying in civil cases to communications made to them by their patients," approved the eighteenth day of June, one thousand eight hundred and ninety-five, which reads: "That no person authorized to practice physics or surgery shall be allowed, in any civil case,

to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity, which shall tend to blacken the character of the patient, without his consent," be and the same is hereby amended to as to read as follows:

That no person authorized to practice physics or surgery shall be allowed, in any civil case, procedure for divorce, suit, action or procedure in equity or common law, in any of the courts of this Commonwealth, to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity, without the consent of such patient.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 351, entitled "An act supplementary to an act approved June eighteenth, one thousand eight hundred and ninety-five, entitled 'An act to prevent physicians and surgeons from testifying in civil cases to communications made to them by their patients,' amending the first section thereof, extending its provisions to proceedings for divorce and in equity, and other proceedings in courts of law and in equity of the Commonwealth."

The substance of the act is contained in the following lines:

"That no person authorized to practice physics or surgery shall be allowed in any civil case, procedure for divorce, suit, action, or procedure in equity or common law in any of the courts of this Commonwealth, to disclose any information which he acquired in attending the patient in a professional capacity, and which was necessary to enable him to act in that capacity, without the consent of such patient." Its language is so vague and indefinite in character as to make the bill a dangerous piece of legislation. If there be any confidential communication made to a physician under circumstances which would make it proper for him to treat the communication as inviolable, the privilege of silence should be more accurately and precisely stated. It is not clear from the wording of the proposed act as to how the physician acquired the information which he is prevented from divulging. If a confession of guilt or an admission of wrongdoing orally stated under stress of pain, weakness, nervousness, delirium or penitence, be intended, then it should be so stated. It might well be that the information acquired in attending a patient in a professional capacity consists of matters of fact which come within the observation of the physician without any communication from the patient, or that such information results from an examination of the condition of the patient, as to which it might be perfectly proper to give testimony. In its present form, the act is too indefinite to be capable of accurate interpretation.

SAML. W. PENNYPACKER.

No. 41.

AN ACT

To provide for the draining of swampy and wet lands.

Section 1. Be it enacted, &c., That upon petition of twenty, or of a majority, if a majority is less than twenty, of the owners of wet or swampy lands belonging to several owners, disjointly, forming a continuous swamp, or marsh, the court of quarter sessions of the proper county shall appoint a jury to view, consisting of three reputable and disinterested citizens of the petitioners' county, who shall have power to view the wet or swampy lands described; and, if in their judgment a drain or drains shall be practicable, they shall proceed to lay out such drain or drains, which may include the lowering and straightening of the bed of any creek or stream, and remove all obstructions from it by which the waters thereof are thrown back upon the wet or swampy land, measuring the length and ascertaining the depth, as near as may be with ordinary facilities. They shall also have power, and it shall be their duty, to make a survey of such swampy or wet land, and get its contents and the quantity owned by each land owner, and make an estimate of the cost of constructing such drain or drains: Provided, however, That notice of the intended application for the appointment of such jury of view shall be published in two newspapers of general circulation in the petitioners' county, at least thirty days previous to the time of making the application, and that like notice, in writing, shall be served upon the county commissioners or proper municipal authorities, at least ten days before making such application; and such petitioners shall serve or cause to be served upon the county commissioners or proper municipal authorities a written notice of the time and place of the meeting of such jury of view, at least five days before such meeting shall be had.

Section 2. The said court of quarter session may appoint a competent stenographer, to keep a faithful record of all proceedings before the viewers, and to furnish a full copy of his notes to be attached to and form part of the record; and shall appoint a reputable person, learned in the law, who shall preside at all meetings of the viewers, to be known as a master, and have the power to determine the admissibility of evidence and issue writs of subpoena, to compel the attendance of witnesses and the production of papers, and instruct the viewers upon matters of law, to which exceptions may be taken for the purpose of review, but shall not have any vote on any question of fact or value.

Section 3. Before entering upon the discharge of his duties the master shall be sworn or affirmed, by the judge appointing him or by the clerk of the court of quarter sessions, to discharge his duties faithfully, impartially, and according to the best of his learning and ability; and after being duly sworn or affirmed he shall, at the first meeting of the viewers, swear or affirm the stenographer to the faithful discharge of his duties, and thereupon shall separately swear or affirm each viewer to perform his duties with fidelity, impartially and according to his best judgment.

Section 4. The said jury of view shall also estimate the damages sustained by any of the said landowners, or any other person, by the construction of said drain or drains. and also the proportion of cost of construction to be borne by each owner of such swampy and wet lands.

Section 5. If in the judgment of the jury of view any township, or the roads or bridges thereof, in which such said wet or swampy land or part thereof is situate, will be benefited by the draining of such land, they shall have power to determine what proportion of the expense of draining the same shall be borne by such township; and if the county commissioners of any county, in which such land is situate, shall determine that the draining of said land, or the lowering or straightening of the bed of any such creek or stream, will benefit such county, or lessen the expense of constructing and maintaining county bridges therein, they may make appropriations out of the county funds, to be used for the purpose of defraying a portion of the expense of said draining, or lowering or straightening the bed of any such creek or stream.

Section 6. Such jury of view shall, within thirty days after the appointment thereof, unless in the discretion of the court the time be extended, report to the court, appointing the same, their action therein.

Section 7. Exceptions may be filed, by any party aggrieved, to the report of such jury of view, within thirty days from the time such report is filed, which exceptions shall be heard by the court in which such report is filed; and said court, after considering such exceptions, may refer the report back to the jury of view, with instructions to take any further proceedings or testimony as the court may deem necessary and proper, or may set the same aside, or may confirm such report; and if no exceptions are filed to any such report, unless appeal is taken as provided in section eight of this act (and in such case the final confirmation of the proceedings shall await the result of the appeal from the assessment, within thirty days from the filing thereof), then such report may be confirmed or dismissed by the court.

Section 8. An appeal to the court of common pleas of the proper county, from the assessment of damages, may be taken by any landowner or by the county commissioners, or the proper municipal authorities, within thirty days after the approval of the report; and thereupon the court shall direct an issue, which shall be tried by a jury, according to the course of the common law as regulated by existing statutes, and judgment entered on the verdict; and the record thereof shall be remitted to the proper court of quarter sessions for further action on the whole case: Provided, however, That the said judgment shall be reviewable by the Supreme Court or Superior court upon writ of error, as in other cases. Such appeal shall be accompanied by affidavit that the appeal is not taken for the purpose of delay, but because the affidavit firmly believes that injustice has been done, and such order shall be made in relation to the costs as the court shall appear best.

Section 9. Each viewer serving on any such jury of view shall be allowed the sum of two dollars for each day necessarily employed thereon, and the master's compensation shall be fixed by the court,

and warrants shall be drawn by the county commissioners of the proper county on the treasurer of their county for the payment of the amounts to which such viewers and master shall be entitled under this act, as well as the stenographer whom the court shall appoint.

Section 10. The county commissioners of any county in which such land is situate, shall, within sixty days after the approval by the court of quarter sessions of the report of such jury of view, advertise in at least two newspapers of general circulation, published in said county, once a week for three consecutive weeks, for sealed proposals for the laying out of such drain or drains and the construction and completion of such work as in said report shall be provided; and the county commissioners, or a majority of them, shall accept the proposal or proposals deemed most advantageous to the public and to those interested and affected by said work, and shall enter into a contract or contracts with such contractor or contractors. They shall require the contractor or contractors to enter into and acknowledge a bond to such county, with at least two sureties, or some reliable surety company, in a sum or sums equal to twenty per centum of the consideration of such contract or contracts, conditioned for the faithful performance of all the terms and conditions of such contract or contracts, which bond or bonds shall be approved by the county solicitor.

Section 11. Within three months after the completion of the work, the county solicitor of any such county shall enter liens against the properties, upon which assessments have been made by the report of said jury of view, which shall then remain in whole or part unpaid, and shall from time to time proceed to collect said assessments of parts thereof remaining due and unpaid according to law, together with all accrued interest and legal costs. The total amount of said assessments shall be appropriated to the payment of the contract price of the said work and other necessary expenses therewith connected.

Section 12. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Evecutive Department,
Harrisburg, April 27, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 268, entitled "An act to provide for the draining of swampy and wet lands."

It is not clear why the owners of wet or swampy lands could not combine in some plan agreeable to themselves for the draining of such lands without making the matter one of public expense, or without the detail provided for in this bill through a master and viewers. Nor is it clear, upon a reading of the whole bill, what public necessity demands the intervention of the county commissioners or a jury of view, there being nothing to show that the swampy lands are in any way connected with public highways or so situated as to roads and bridges as to make it the duty of the county commissioners to determine why the expense of draining should be borne by the township. If the approach to a bridge be

over a highway consisting in part of a swamp, the duty of draining such swampy portions would seem to be cast upon those in whose charge said highways are placed under the law, and it would seem unjust to the community to benefit at public expense the lands of those owning swamps immediately adjoining a highway or in the neighborhood of a bridge.

Moreover, the bill extends the right, under the guise of a petition for the appointment of viewers, upon the owners of wet or swampy lands to exercise the right of eminent domain, in the laying out of drain or drains which might be determined to be necessary, or in the lowering and straightening of the bed of any creek or stream, or in the removal of all obstructions from it by which the waters thereof were thrown back upon the wet or swampy land owned by the petitioners. To properly exercise such a power to lay out a drain or drains, or to lower or straighten the bed of any creek or stream, it might well be necessary to take the land of other people higher up the stream so as to improve and benefit the condition of the wet or swampy land below. Again the removal of "all obstructions" from the bed of any creek or stream, by which the waters thereof are thrown back upon the wet or swampy lands involved, is too general and indefinite in its possible application to admit of accurate interpretation. So many things might constitute an obstruction that this language would in effect authorize the removal of a dam or bridge or other structure existing either upon public ground or private land, and all for the benefit of the lands sought to be drained.

There are some minor defects in the bill in the way of phraseology, notably the use of the word "affidavit" in line twelve of section eight, but the error is so apparent that it does not interfere with the construction of the act.

SAML. W. PENNYPACKER.

No. 42.

AN ACT

To protect the public from the unlawful use of bottles, jars, vessels, or other packages, in the sale and delivery of milk and cream and their products, and providing penalties for such use.

Section 1. Be it enacted, &c., That any person who, after being duly notified by the owner not to use, shall use any bottle, jar, vessel, or other package of such owner, upon which is stamped, blown or engraved the name, title or mark of the owner, without the consent of the owner, in the sale, exchange and delivery of milk or cream, or their products, shall be guilty of a misdemeanor; and on conviction thereof, shall be fined not exceeding one hundred dollars, ($100.00) and imprisonment not exceeding six (6) months, either or both, at the discretion of the court.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I herewith file, in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 226, entitled "An act to

protect the public from the unlawful use of bottles, jars, vessels or other packages in the sale and delivery of milk and cream and their products, and providing penalties for such case."

This bill is an example of that inconsiderate spirit which would visit with fine and imprisonment an act to which no criminality can properly attach. Articles used in trade ought not to be protected by imprisoning the people who use them, nor should the fact of their criminality depend upon a notice given by an interested owner, complaining of a misuse of the article hired. If the act described involves the crime of stealing or of larceny, it is already covered by existing laws, while, if it be proper to limit the use of the article, it should be done under the terms of a contract of hiring, so drawn that no mistake could be made as to the terms of the contract, and it would be open to the injured party to recover such damages as he is entitled to for breach of the contract as in ordinary cases.

SAML. W. PENNYPACKER.

No. 43.

AN ACT

To repeal an act approved the twelfth day of April, Anno Domini one thousand eight hundred and sixty-six, entitled "An act relative to the publication of legal advertisements in the county of Bedford."

Section 1. Be it enacted, &c., That an act, approved the twelfth day of April, Anno Domini one thousand eight hundred and sixty-six, entitled "An act relative to the publication of legal advertisement in the county of Bedford," be and the same is hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 261, entitled "An act to repeal an act approved the twelfth day of April, Anno Domini one thousand eight hundred and sixty-six, entitled 'An act relative to the publication of legal advertisements in the county of Bedford.'"

The purpose of this bill is to repeal the act of April 12, 1866, concerning the publication of legal advertisements in the county of Bedford, which act provides that these advertisements shall be published "in the two newspapers having the largest circulation in said county." The act of 1866 appears to have stood upon the statute book for a long time and it is difficult to see how a better system could be adopted for giving publicity to the legal advertisements in that county.

SAML. W. PENNYPACKER.

No. 44.

AN ACT

To enable foreign corporations to take, purchase and hold real estate, in this Commonwealth, for the purpose of erecting and maintaining sanitariums and health resorts, and bottling, preparing, selling and shipping mineral and other waters.

Section 1. Be it enacted, &c., That hereafter it shall be lawful for all corporations, chartered under the laws of any other state or country, to take, purchase and hold real estate, in this Commonwealth, for the purpose of establishing, erecting and maintaining a sanitarium, or sanitariums and health resorts, and preparing, bottling, selling and shipping mineral and other waters, on which real estate such corporation shall carry on its business; and shall have authority to mortgage and convey the same, or any part thereof, and to lease any part of its buildings erected thereon, and any part of the grounds not requisite for the transaction of its business: Provided, however, That such corporation shall not hold more than five hundred acres of land in any one county of this State.

Section 2. That the title to any real estate in this Commonwealth, now held by, or in trust for any such corporation, for the purpose aforesaid, is hereby confirmed, to the same effect as if the real estate had been purchased, held or owned under the provisions of this act.

Section 3. That all acts of Assembly or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 265, entitled "An act to enable foreign corporations to take, purchase and hold real estate in this Commonwealth for the purpose of erecting and maintaining sanitariums and health resorts and bottling, preparing, selling and shipping mineral and other waters."

This bill is not approved for the reasons fully set forth in the objections accompanying House bill No. 149.

SAML. W. PENNYPACKER.

No. 45.

AN ACT

To enable foreign corporations, engaged in this State in the manufacture of petroleum or its products into articles of use or commerce, to hold real estate in this Commonwealth.

Section 1. Be it enacted, &c., That hereafter it shall be lawful for all corporations chartered under the laws of any other State, and engaged in this State in the manufacture of petroleum or its pro-

ducts into articles of use or commerce, to take, hold and enjoy, in any part of this Commonwealth, either in their corporate name or by a trustee or trustees, agent or agents, such real estate and premises on, in or upon which such corporations shall carry on their said business, and to lease, mortgage and convey the same or any part thereof: Provided, however, That the clear yearly value or income from said real estate shall not exceed twenty-five thousand ($25,000) dollars: Provided, That nothing herein contained shall be deemed to prevent or relieve any real estate, taken and held by any such foreign corporation under the provisions of this act, from being taxed in like manner with other real estate within this Commonwealth, used for a similar purpose: And provided further, That every such foreign corporation, doing business as aforesaid in this Commonwealth, shall be liable to taxation to an amount not exceeding that imposed on corporations organized for similar purposes under the laws of this State, and every such foreign corporation, taking the benefit of this act, shall make the same returns to the Auditor General that are required by law to be made by corporations of this State under similar circumstances.

Section 2. That the title to any real estate in this Commonwealth, now held by, or in trust for, any such corporation, for the purposes aforesaid, is hereby confirmed, to the same effect as if the said real estate had been purchased, held or owned under the provisions of this act.

Section 3. That all acts of Assembly or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 28, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 149, entitled "An act to enable foreign corporations engaged in this State in the manufacture of petroleum or its products into articles of use or commerce to hold real estate in this Commonwealth."

A bill of the same character House bill No. 12 was returned without my approval, March 27, 1903. There is no distinction between these two bills. The Constitution of Pennsylvania undertook to regulate the granting of charters to corporations. The result is that charters can only be granted in this State subject to such limitations as it imposes. This bill gives permission to corporations chartered under the laws of other states to acquire real estate here. It is quite evident that if persons within the State could go to another state and there secure a charter without the limitations so imposed and, thereupon, may return here and exercise the same privileges which are granted to corporations chartered within the State, the provisions of the Constitution are in fact nullified. The only result will have been to send her own citizens to other states in order to secure charter privileges. If it be thought wise to extend to corporations chartered in other states the right to hold lands

here, it ought to be done by a well considered general act and not by way of granting privileges in special cases and in special pursuits.

SAML. W. PENNYPACKER.

No. 46.

AN ACT

To provide for an additional law judge of the several courts of the Forty-seventh Judicial district, composed of the county of Cambria.

Section 1. Be it enacted, &c., That in addition to the judges provided for in an act, entitled "An act to designate the several judicial districts of the Commonwealth as required by the Constitution, and to provide for the election, appointment and commissioning of judges, learned in the law, for the said districts, in cases where such judges are not provided for by existing laws," approved the eighteenth day of July, Anno Domini one thousand nine hundred and one, an additional law judge is hereby authorized and provided for, for the several courts of the Forty-seventh Judicial district, composed of the county of Cambria, who shall possess the same qualifications which are required by the Constitution and laws for the president judge of said district, and who shall hold his office for a like term and by the same tenure, and shall have the same powers, authority and jurisdiction, and shall be subject to the same duties, restrictions and penalties, and shall receive the same compensation as the president judge of the said district.

Section 2. The Governor of this Commonwealth, upon the passage of this act, shall appoint and commission some competent person, learned in the law, as such additional law judge, of said judicial district, whose term of office shall begin on the first Monday of September, Anno Domini one thousand nine hundred and three; and the judge so appointed and commissioned shall continue in office till the first Monday of January, Anno Domini one thousand nine hundred and five. At the general election of this Commonwealth on the Tuesday next following the first Monday of November, Anno Domini one thousand nine hundred and four, a judge shall be elected and commissioned for the same term, and in the same manner as the president judge of the courts of said county. Vacancies in the office hereby created, whether caused by death, resignation, expiration of term or otherwise, shall be filled in the same manner as required by law in case of a similar vacancy in the office of president judge.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 28, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 285, entitled "An act to

provide for an additional law judge of the several courts of the Forty-seventh Judicial district, composed of the county of Cambria."

I am not in favor of a policy of increasing the number of judges unless strongly persuaded of its necessity. Until it plainly appears that the public administration of justice in any county is suffering from an inadequate judicial force, I prefer to rely upon the strong sense of duty and of diligence which quite generally animates the bench. I am not persuaded of the necessity for an additional judge in the county of Cambria.

Apart from this view, however, this bill is unconstitutional. Should it be approved, a vacancy would exist which it would be my constitutional duty to fill by appointment under section twenty-five of article five of the Constitution of 1874, which provides as follows:

"Any vacancy happening by death, resignation, or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy."

The duty of appointment would attach immediately, for the moment an office is created a vacancy exists or happens within the meaning of the constitutional provision. A vacancy is a condition precedent to the power to appoint. A newly created office, which is not filled by the tribunal which created it, becomes vacant on the instant of its creation; an existing office without an incumbent being vacant whether it be a new one or an old one. The general principle is that the word "vacancy" aptly and fitly describes the condition of an office when it is first created and has not been filled by an incumbent.

The result reached by the Supreme Court in the case of Walsh v. The Commonwealth, 89 P. S., 419, is expressly in point. It was there held that the prerogative of the Governor under the Constitution cannot be overthrown by legislative enactment. If this bill should become a law by my approval, it would become a law more than three calendar months before the next general election, and a vacancy would occur, which I, as Governor, could fill by appointment to continue until the first Monday of January next succeeding the first general election occurring three or more months after the happening of such vacancy. The second section of this bill directs that the Governor of the Commonwealth, upon the passage of the act, "shall appoint and commission some competent person, learned in the law, as such additional law judge of said judicial district, whose term of office shall begin on the first Monday of September, Anno Domini one thousand nine hundred and three, and the judge so appointed and commissioned shall continue in office until the first Monday of January, Anno Domini one thousand nine hundred and five." The section further provides that at the general election of this Commonwealth, on the Tuesday next following the first Monday of November, Anno Domini one thousand nine hundred and four, a judge shall be elected and commissioned for the same term and in the same manner as the president judge of the courts of said county.

These provisions are in conflict with the Constitution, for they undertake to empower me as Governor to fill a vacancy already exist-

ing, the term of office to begin only sixty days before the next general election. It is clear that the Constitution must be obeyed, and that a statute cannot direct when or how I shall appoint, nor limit the operation of my power to appoint, nor define the term of my appointee. The words of the Constitution themselves limit the term of the appointee and specifically declare that such term shall continue until the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy. The language of the act, however, ignoring my duty to make an appointment forthwith, provides that the term of the appointee shall not begin until the first Monday of September, Anno Domini one thousand nine hundred and three; and, still further ignoring the language of the Constitution that the term shall continue only until the first Monday of January next succeeding the first general election occurring three or more months after the happening of such vacancy, the act provides that the term of my appointee shall continue until the first Monday of January, Anno Domini one thousand nine hundred and five. This would be an unconstitutional extension of the term of office.

Under the words of the act, as proposed, the duty to appoint arises upon the passage of the act, which means that the power of the Governor to appoint shall begin immediately upon the signing of the bill. Up to this point this is but a legislative declaration of existing law; but it follows that my power to appoint cannot attach unless there is a vacancy. If, then, there is a vacancy existing immediately upon the approval of the bill, it becomes my duty to immediately fill that vacancy. I cannot override the Constitution, either by postponing the exercise of my power, nor can I add my signature to the act of the Legislature directing me to appoint a person to fill the office for a longer time than the Constitution provides. The mere statement in the bill that the term of office shall begin on the first Monday of September, Anno Domini one thousand nine hundred and three, will not cure this defect. The words of the bill do not create the vacancy in office, it is the enactment of the bill which creates the office and thereby creates the vacancy. This gives me the power to immediately appoint.

For these reasons I am satisfied that the provision prescribing the time when my appointment should become operative and defining the term during which it should continue to be operative is in conflict with the Constitution, and that the bill must fail.

SAML. W. PENNYPACKER.

No. 47.

AN ACT

To establish a uniform method for issuing and recording certificates granted to persons employed as mine foremen and assistant mine foremen in the coal mines of Pennsylvania.

Section 1. Be it enacted, &c., That from and after the final passage of this act, each of the several District Examining Boards organized for the examination of applicants for certificates as mine

foremen and assistant mine foremen, in both Anthracite and Bituminous coal regions of this State, shall, at the close of each and every examination held by them, report to the Secretary of Internal Affairs, in manner as he may direct, the names of all persons who they find qualified to serve as mine foremen and assistant mine foremen, under the requirements of the coal mining laws of this Commonwealth now in force or may hereafter be enacted; and shall also demand and collect the sum of three dollars, as certificate fees, from each person recommended by them as being entitled to receive certificates; which fees the said boards shall pay over or cause to be paid to the said Secretary of Internal Affairs in connection with the transmissal of their reports to him; no fees, however, to be demanded or collected from applicants not reported or recommended.

Section 2. The Secretary of Internal Affairs shall, upon the receipt of said reports and fees from the District Examining Boards, place the reports on file in his office, and shall issue, under his signature and the seal of his office, a certificate to each person named in said reports, of the denomination or class therein recommended.

Section 3. The Secretary of Internal Affairs shall also keep in his office a record of all certificates issued by him under this act, and in case of the loss or destruction of a certificate he may supply a copy thereof to the person losing the same: Provided, It shall be shown to the satisfaction of the Secretary that the loss has actually occurred.

Section 4. All moneys received by the Secretary of Internal Affairs under the provisions of this act shall be paid by him into the State Treasury, except necessary expenses for proper engrossing and recording said certificates.

Section 5. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 28, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 29, entitled "An act to establish a uniform method for issuing and recording certificates granted to persons employed as mine foremen and assistant mine foremen in the coal mines of Pennsylvania."

This bill provides that the examining boards for the examination of applicants for certificates of mine foremen shall report to the Secretary of Internal Affairs, that he shall issue a certificate to each person named in the reports and keep in his office a record of those issued. This whole subject is taken from the control of the Secretary of Internal Affairs by an act creating a Department of Mines approved on the 14th day of April, 1903.

SAML. W. PENNYPACKER.

No. 48.

AN ACT

Respecting trading stamps, coupons, tickets, and other similar devices; to provide for and to regulate the mode and manner of redemption of said trading stamps, coupons, tickets, and other similar devices; and to provide penalties for a violation thereof.

Section 1. Be it enacted, &c., That any association, corporation or individual, on or after June first, one thousand nine hundred and three, who shall sell or issue stamps or devices, known as trading stamps, coupons, tickets, or other similar devices, to any association, corporation or individual, engaged in any trade, business or profession, with the promise or assurance, express or implied, that they, it, she or he, will give or deliver to any person presenting the stamps, coupons, tickets, or other similar devices, money or goods, wares or merchandise therefor, to a stipulated value, shall print upon the face of every one of said stamps, coupons, tickets, or other similar devices, in a conspicuous manner, the advertised and stipulated value of said stamps, coupons, tickets, or other similar devices; and shall redeem said stamps, coupons, tickets, or other similar devices, in any number whatever, which may be presented for redemption, either in cash, good and lawful money of the United States of America, or in goods, wares and merchandise, at the option of the holder thereof, or the person who presents the same: Provided, That no such trading stamps, coupons, tickets, or other devices, shall represent either expressed or implied a chance or lottery value.

Section 2. Any association, corporation or individual who shall sell or issue any stamps or devices, known as trading stamps, coupons, tickets, or other similar devices, shall, upon failure to redeem said trading stamps, coupons, tickets, or other similar devices, in the manner prescribed in the first section hereof, be liable to the holder of the said stamps, coupons, tickets, or other similar devices, for their advertised and stipulated value; and the said holder may recover said value from said association, corporation or individual selling or issuing said stamps, coupons, tickets, or other similar devices, in an action upon contract, in any court of competent jurisdiction, together with the costs of suit, which shall include the fee of the attorney for said holder.

Section 3. Any association, corporation or individual violating any of the provisions of this act, shall be deemed guilty of a misdemeanor; and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court.

Commonwealth of Pennsylvania,
Executive Chamber,
Harrisburg, April 28, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 491, entitled "An act respecting trading stamps, coupons, tickets and other similar devices, to pro-

vide for and to regulate the mode and manner of redemption of said trading stamps, coupons, tickets and other similar devices and to provide penalties for a violation thereof."

This bill provides that any association, corporation or individual who shall sell trading stamps with the promise that there will be given for them money or goods, shall redeem the stamps in any number whatever "either in cash, good and lawful money * * * or in goods, wares and merchandise at the option of the holder." For failure to comply with this provision, the association, corporation or individual is punished by a fine not exceeding $500, or by imprisonment not exceeding six months, or both, at the discretion of the court. In other words for failure to complete a gift which could under no circumstances be more than a violation of a contract, the offender is to be punished with imprisonment. The transaction is not in any sense criminal and there is no propriety in so treating it. It is moreover difficult to understand how a corporation can be imprisoned.

SAML. W. PENNYPACKER.

No. 49.

AN ACT

To provide for the retirement of judges of the courts of records of this Commonwealth.

Section 1. Be it enacted, &c., That any judge of any court of record of this Commonwealth, having been commissioned for more than thirty years, and having attained the age of seventy years, may resign his commission as judge, and shall, during the remainder of his term for which he was elected, receive the same salary which by law was payable to him while in commission, if he shall so long live, and the office made vacant shall be filled as is now provided by law in case of a vacancy.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 28, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 376, entitled "An act to provide for the retirement of judges of the courts of record of this Commonwealth."

This bill provides "that any judge of any court of record of this Commonwealth having been commissioned for more than thirty years and having attained the age of seventy years, may resign his commission as a judge and shall during the remainder of his term of office for which he was elected receive the same salary which by law was payable to him while in commission if he shall so long live."

This bill is very imperfectly drawn. No judge of the Commonwealth is ever commissioned for more than thirty years. The only construction that is possible to put upon it is that it is intended to apply to the case where a judge has had three successive commissions for ten years each. If this be the interpretation, then any judge at the beginning of his third term can resign and take advantage of the provisions of the bill. The purpose probably intended by the draftsman was to provide for the case of a judge who has already served thirty years and has received a commission for a fourth term, but there is no expression of this purpose anywhere in the bill. The title to the act is also imperfect. It is described as an act to provide for the retirement of judges. It is really an act to provide for the retirement of judges who have served for a certain length of time upon the bench.

SAML. W. PENNYPACKER.

No. 50.

AN ACT

To amend an act, entitled "An act to regulate the publication, binding and distribution of the public documents of this Commonwealth," approved the second day of June, Anno Domini one thousand eight hundred and ninety-nine.

Section 1. Be it enacted, &c., That from and after the passage of this act, the printing, binding, distribution and number of the several public documents of this Commonwealth shall be as follows, to wit:

"Section 9. Eight thousand six hundred copies of the report of the Secretary of Internal Affairs on Mines; two thousand for the Senate, four thousand for the House, two thousand for the Secretary of Internal Affairs, fifty for the Governor, fifty for the Secretary of the Commonwealth, one hundred for the State Librarian, and four hundred to be reserved for official documents" be amended to read as follows:

Section 9. Eleven thousand six hundred copies of the report of the Department of Mines: two thousand for the Senate, four thousand for the House, five thousand to the Department of Mines, fifty for the Governor, fifty for the Secretary of the Commonwealth, one hundred for the State Librarian, and four hundred to be reserved for official documents.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 28, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 388, entitled "An act to amend an act, entitled 'An act to regulate the publication, binding and

distribution of the public documents of this Commonwealth,' approved the second day of June, Anno Domini one thousand eight hundred and ninety-nine."

The subject matter of this bill is already provided for by an act, entitled "An act to amend an act entitled an act to regulate the publication, binding and distribution of the public documents of this Commonwealth, approved the second day of June, Anno Domini one thousand eight hundred and ninety-nine," which act was approved on the 22nd of April, 1903.

SAML. W. PENNYPACKER.

No. 51.

AN ACT

Concerning acquisition, by condemnation, of lands by railroad corporations of this Commonwealth possesed of the power of eminent domain, including those used and occupied in whole or in part as dwellings by the owners thereof, and exempting burial-grounds and places of public worship, and certain Colonial and Revolutionary structures and sites.

Section 1. Be it enacted, &c., That it shall be lawful for railroad corporations of this Commonwealth, created and organized by and under either special or general law, and thereby invested with the power of eminent domain, to take, appropriate and acquire, by condemnation proceedings, in the manner now or hereafter prescribed by law, any and all such lands within this Commonwealth as in the judgment of the directors, declared by resolution duly adopted, shall be necessary for the location and construction of their respective railroads, branches, stations, sidings, yards or shops, or for straightening, widening or otherwise improving the same, or any other proper corporate purpose, in order that the public may be afforded safe, convenient and adequate transportation facilities, notwithstanding the fact that any lands so taken and appropriated may be used and occupied, in whole or in part, as dwellings by the owner or owners thereof: Provided, That this act shall not be so construed as to permit and authorize the taking and appropriation, without the consent of the owner or owners thereof, of land occupied and used as a burying ground or place of public worship: And provided further, That whenever lands shall be taken, which have been continuously occupied as a dwelling by the same owner for a period not less than twenty years immediately prior to such taking, additional damages, not exceeding ten per centum of the value of the land taken, shall be allowed and awarded to such owner on that account.

Section 2. From and after the passage of this act, no railroad corporation, created and organized by and under either special or general law, shall have the right to take and condemn for railroad purposes any fort, redoubt or blockhouse, erected during the Colonial or Revolutionary periods; or the sites whereon any such fort, redoubt or blockhouse at any time stood during said periods,

which are now preserved by any association, society or corporation for their historical memories and associations; or any building which was used during the Colonial or Revolutionary periods as a place of assembly by the Council of the Colony of Pennsylvania, or by the Supreme Executive Council of the Commonwealth of Pennsylvania, or by the Congress of the United States, or as the headquarters by the Commander-in-Chief of the Continental Army, which is preserved by any association, society or corporation for its historical memories and associations.

Provided, That the said Colonial and Revolutionary periods, as applied to said buildings, forts, redoubts, blockhouses or headquarters, or the sites thereof, shall be taken as ended on the third day of September, Anno Domini one thousand seven hundred and eighty-three.

Section 3. That anything contained in any general or special law inconsistent with this act, or with the exemptions and restrictions herein specified, be and the same is hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 29, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 182, entitled "An act concerning acquisition by condemnation of lands by railroad corporations of this Commonwealth possessed of the power of eminent domain, including those used and occupied in whole or in part as dwellings by the owners thereof and exempting burial grounds and places of public worship and certain Colonial and Revolutionary structures and sites."

This bill provides "that it shall be lawful for railroad corporations of this Commonwealth, created and organized by and under either special or general law and thereby invested with the power of eminent domain to take, appropriate and acquire by condemnation proceedings in the manner now or hereafter prescribed by law any and all such lands within this Commonwealth as in the judgment of the directors declared by resolution duly adopted shall be necessary for the location and construction of their respective railroads, branches, stations, sidings, yards or shops or for straightening, widening or otherwise improving the same, or any other proper corporate purpose in order that the public may be afforded safe, convenient and adequate transportation facilities, notwithstanding the fact that any lands so taken and appropriated may be used and occupied in whole or in part as dwellings by the owner or owners thereof."

The bill raises questions of very great importance. Power is given to all railroad corporations as well those now in existence as those which may be hereafter created under our very generous general railroad act, to take in the exercise of the right of eminent domain, the dwellings of citizens not only for railroads but for "yards or shops" or for "any other proper corporate purpose" whenever "in the judgment of the directors" it shall be necessary for the location, construction, straightening, widening, or improving

the same. There is no limitation as to locality or proximity to the road. Whenever the directors of the road think it necessary in order to improve their shops or yards, to take dwellings they are given the power. The main purpose of the act was no doubt to enable an important main railroad highway with connections extending over the country to straighten its line so that it may not fall behind in competition with its rivals. In the struggle for possession of western freight, every mile of curve taken out of the line is so much gained not only in distance but time. Along the line of this railroad, as it appeared to be fixed, people have established their homes and erected and adorned their houses with the expectation of making use of the facilities afforded them. It is now proposed to a certain extent to change the location of the road and from the railroad point of view, in the exigencies of trade, it has become necessary that these homes should be surrendered. Which shall yield? It seems to me that the interests of the railroad and the prospective profits of the holders of its stock are of minor importance in the consideration of the question. When they made their investment, the possibilities of the shifting of trade and of the competition of other roads were among the risks taken, and the inconvenience of such limitations upon success has to be borne. A railroad has the great power which it wields as the agent of the public. When the land of a citizen is taken by a railroad, it is taken by the Commonwealth, because the public necessities require the sacrifice. Is it then more to the interest of the Commonwealth that there should be an absolutely straight line between New York or Chicago, because that is the logical end toward which one alternative takes us, or is it more to the interest of the Commonwealth that the citizen should be permitted to rear his family at his own fireside undisturbed, with all that this means for the preservation of the race and its virtues? It seems to me that it is possible to take a middle course to avoid both Scylla and Charybdis and to this extent at least to put the exercise of the right of eminent domain where in principle it belongs. There may be a house about which there can be no sentiment and little value owned by a man without family, which he proposes to sell at an enormous price because it stands in the line of a great public improvement. There may be a home typical of all that there is good in American life, around which cluster the associations of centuries and which ought to be preserved regardless of trade. There may be a railroad organized at a venture without public need, destined to end in failure after the destruction of much which is more useful than itself. Is it wise to leave the determination of what ought to be saved and what may be destroyed to a board of interested directors? Is it wise to have judgment rendered by one of the parties? The bill ought to have provided for a tribunal representing the State which could decide upon the necessity and while being just to the railroads, could protect the citizen. If we are to go further with the grants of the right to take private property, and any one who has kept pace with recently projected legislation can see whither we are else drifting, some such plan ought to be adopted.

There are other objections to the bill. In so far as a railroad erects shops, it is not a common carrier, but a manufacturer and

there is no reason why it should be given an advantage over other manufacturers. The making of rails or engines or their repair is important work, but not more important than the building of ships or the construction of boilers.

Under the bill certain buildings of historic importance are protected, including blockhouses and the headquarters of the Commander-in-Chief of the Continental Army. They are only protected however, if they belong to a society or corporation. If they are to be protected, it is because of their historic importance. How is this affected by the character of their ownership? There is no additional merit in the fact that they belong to a corporation, which after all may be using them for their money value.

SAML. W. PENNYPACKER.

No. 52.

AN ACT

To amend an act, entitled "An act providing that no company hereafter formed for the purpose of construction and operation of a passenger railway, either elevated or underground, or partly elevated or partly underground, with incidental suface rights, shall be incorporated except where the same shall be located upon streets in thickly populated regions, and until the necessity for such railways shall have been passed upon by a board consisting of the Governor, the Secretary of the Commonwealth and the Attorney General, after notice," approved the twentieth day of June, Anno Domini one thousand nine hundred and one.

Section 1. Be it enacted, &c., That an act, entitled "An act providing that no company hereafter formed for the purpose of construction and operation of a passenger railway, either elevated or underground, or partly elevated or partly underground, with incidental surface rights, shall be incorporated except where the same shall be located upon streets in thickly populated regions, and until the necessity for such railways shall have been passed upon by a board consisting of the Governor, the Secretary of the Commonwealth and the Attorney General, after notice," approved the twentieth day of June, Anno Domini one thousand nine hundred and one, which reads as follows:

"Section 1. Be it enacted, &c., That hereafter no letters patent shall be issued to any company, nor shall any corporation be otherwise created, for the construction of an elevated or underground, or partly elevated or partly underground, passenger railway, except the same shall be located upon, over, under, across, through or along a street, road or highway in a thickly populated locality, where the surface travel is congested; nor unless and until the necessity for the construction and operation of said railway shall have been passed on and approved by a board, consisting of the Governor, the Secretary of the Commonwealth, and the Attorney General, after thirty days' public notice, published as shall be prescribed by said board," be and the same is hereby amended so as to read as follows:

Section 1. Be it enacted, &c., That hereafter no letters patent

shall be issued to any company, nor shall any corporation be otherwise created, for the construction of an elevated or underground, or partly elevated and partly underground, passenger railway, except the same shall be located upon, over, under, across, through or along a street, road or highway in a thickly populated locality, where the surface travel is congested; nor unless and until the necessity for the construction and operation of said railway shall have been passed on and approved by a board, consisting of the Governor, the Secretary of the Commonwealth, and the Attorney General, after thirty days' public notice, published as shall be prescribed by said board: Provided, That the provisions of this act shall not be construed to apply to, or in any way limit, the powers of corporations heretofore incorporated and authorized to construct and operate an elevated or underground, partly elevated and partly underground, passenger railway, to construct branches or extensions, not exceeding five miles in length, from its main line of railway, in the manner provided in the act under which they are incorporated.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 29, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 535, entitled "An act to amend an act, entitled 'An act providing that no company hereafter formed for the purpose of construction and operation of a passenger railway either elevated or underground or partly elevated or partly underground with incidental surface rights shall be incorporated except where the same shall be located upon streets in thickly populated regions and until the necessity for such railways shall have been passed upon by a board consisting of the Governor, the Secretary of the Commonwealth and the Attorney General after notice, approved the twentieth day of June, Anno Domini one thousand nine hundred and one."

The reasons for not approving this bill appear sufficiently in the objections upon file to Senate bill No. 182.

If the act of June 20, 1901, relating to elevated or underground passenger railways be a proper and reasonable exercise of legislative power affecting street railways, there appears to be no good reason why it should not apply to the extension of railways by corporations heretofore incorporated.

SAML. W. PENNYPACKER.

No. 53.

AN ACT

To provide for an additional law judge of the several courts of the twelfth judicial district.

Section 1. Be it enacted, &c., That in addition to the judges provided for in an act, entitled "An act to designate the several judicial districts of the Commonwealth, as required by the Constitution, and to provide for the election, appointment and commissioning of judges, learned in the law, for the said districts, in cases where such judges are not provided for by existing laws," approved the eighteenth day of July, Anno Domini one thousand nine hundred and one, an additional law judge is hereby authorized and provided for the several courts of the Twelfth Judicial district, who shall possess the same qualifications which are required by the Constitution and laws for the president judge of said district, and who shall hold his office for a like term and by the same tenure, and shall have the same powers, authority and jurisdiction, and shall be subject to the same duties, restrictions and penalties, and shall receive such compensation as is provided by law.

Section 2. At the next general election after the passage of this act, the qualified electors of said Twelfth Judicial district shall elect, in the manner provided by law for the election of a president judge, a competent person, learned in law, to serve as additional law judge in said district. Vacancies in the office hereby created, whether caused by death, resignation, expiration of term, or otherwise, shall be filled in the same manner as required by law in case of a similar vacancy in the office of president judge.

Section 3. The Governor is hereby authorized to appoint some competent person, learned in the law, to serve as such additional law judge, of said judicial district, until the first Monday of January succeeding the next general election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 29, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 229, entitled "An act to provide for an additional law judge of the several courts for the Twelfth Judicial district."

In disapproving of a similar bill I stated that I was opposed in principle to any increase in the number of judges unless fully satisfied that the public interest in any county was a sufferer from an inadequate judicial force.

With a full realization that in the county of Dauphin the ordinary business of the courts is increased by a special jurisdiction in matters affecting the interests of the Commonwealth, I have considered with care the evidence and arguments submitted in favor of the bill.

So far as the business of the Commonwealth is concerned, the recent act of 10th July, 1901 (P. L. 637), confers on the courts of com-

mon pleas of the several counties of this Commonwealth jurisdiction in all cases to which the Commonwealth is a party, except in tax cases, and so far as the tax cases are concerned the Supreme Court has so fully settled the questions arising under our revenue laws as to leave but little room for an increase of business. I have grave doubt of the necessity for this act.

SAML. W. PENNYPACKER.

No. 54.

AN ACT

Authorizing the cities of the second class in this Commonwealth to own, control and maintain their own waterworks, and for that purpose to acquire, by condemnation proceedings or otherwise, present existing waterworks plants, or, failing to be able to do so at a satisfactory cost, to build, purchase, lease, or in any other manner acquire a separate waterworks plant, for the purpose of supplying or furnishing water to the said cities and the inhabitants thereof; and authorizing the said cities to raise the money necessary for this purpose by an issue of bonds, upon the waterworks so purchased, constructed or erected.

Section 1. Be it enacted, &c., That from and after the passage of this act, the several cities of the second class, within this Commonwealth, may purchase present existing waterworks, for the purpose of furnishing water to the municipality and the citizens thereof, by condemnation proceedings as now provided by law, or otherwise, or, failing to be able to purchase such waterworks plants at a fair and reasonable cost, the said cities of the second class may erect, construct, purchase or lease such other waterworks plants as may be necessary for the purpose of furnishing water to the municipality and its citizens.

Section 2. For the purpose of carrying this act into effect, the recorder of any city of the second class may appoint a committee of five citizens of the said municipality, who shall, after due investigation and consideration, make a report to councils of the existing conditions of the water supply of said city, with a recommendation as to the proper course to pursue therein; whereupon the councils may provide, by ordinance, for the purchase of present existing waterworks plants, if the same can be done at a reasonable cost, or, failing in that, for the construction of a new waterworks plant or the leasing of a present existing plant, for the purpose of supplying water to the municipality and the residents thereof: Provided, That such ordinance shall not go into effect until approved by the affirmative vote of a majority of the qualified electors of said city, voting at an election provided by ordinance of councils for that purpose.

Section 3. For the purpose of raising the money necessary for the purchase or construction of the aforesaid waterworks plants, by any of the said cities of the second class, the said councils of the said city, by and with the consent of the recorder thereof, are hereby authorized to provide by ordinance for an issue of a series of bonds, which shall be denominated "Water Bonds," to be sold as bonds is-

sued for municipal purposes are sold, and upon such terms and conditions as may be by ordinance directed: Provided, however, That said bonds shall be payable in not less than five nor more than fifty years from the date of their issue, and that the same shall bear interest at a rate not exceeding six percentum per annum, and that said bonds shall not be sold or exchanged for less than their par value, with accrued interest; And provided further, That this issue of bonds shall constitute no part of the general or funded indebtedness of the municipality, but shall rest solely and alone for their security and payment upon the waterworks purchased or constructed under the provisions of this act: And provided further, That before the issue of said bonds shall be made, provision shall be made for a separate sinking-fund, to be created solely from the earnings of said water plant, sufficient to pay at maturity the said water bonds; and that a sufficient amount of money, arising. solely from the earnings of said waterworks plant, after the payment of interest upon said bonds shall have been made, shall be placed by the city in the hands of the sinking-fund commissioners, to the credit of said separate sinking-fund, in each and ever year, for the purpose of paying the same in such manner as shall be provided by ordinance of the said city.

And provided further, That the liability of any such city of the second class, in respect to the payment of the interest or the principal of said bonds, shall be limited to the earnings of the said waterworks plant, and to the creation of said separate sinking-fund, and the placing therein, in manner and for the purpose aforesaid, the earnings derived from the operative and conduct of such waterworks plant; and if said earnings shall be insufficient to pay the said interest and principal of the said bonds, as the same may become due, any judgment or judgments which may be obtained by reason of such default, and any execution or executions, process or processes, for the collection or collections of such judgment or judgments, shall be limited and restricted in their lien operation and satisfaction to the said waterworks plant, and shall not extend to any other property of the said city, or become any part of its general or funded indebtedness.

Section 4. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 29, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 291, entitled "An act authorizing the cities of the second class in this Commonwealth to own, control and maintain their own waterworks, and for that purpose to acquire by condemnation proceedings or otherwise present existing waterworks plants or failure to be able to do so at a satisfactory cost to build, purchase, lease or in any other manner acquire a separate waterworks plant for the purpose of supplying or furnishing water to the said cities and the inhabitants thereof and authorizing

the said cities to raise the money necessary for this purpose by an issue of bonds upon the water works so purchased, constructed or erected."

It is very much to be regretted that the purpose of this bill should fail. It is a bill intended to provide a means by which cities of the second class may become the owners of the waterworks which supply those cities with water—an entirely proper object. There is one objection which in itself seems to be fatal. Section three provides that for the purpose of raising the money necessary for the purchase, the councils of the city, with the consent of the recorder, are authorized to provide by ordinance for an issuance of a series of bonds. It then directs "that said bonds shall be payable in not less than five nor more than fifty years from the date of their issue and that the same shall bear interest at a rate not exceeding six per centum per annum and that said bonds shall not be sold or exchanged for less than their par value with accrued interest. And provided further, that this issue of bonds shall constitute no part of the general or funded indebtedness of the municipality, but shall rest solely and alone for their security and payment upon the waterworks."

Article nine, section ten of the Constitution provides that "any county, township, school district or other municipality incurring any indebtedness shall at or before the time of so doing provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years." This is a general provision, which is not limited to the general or funded indebtedness of the municipality, but covers any indebtedness and fixes the time at which that indebtedness must be paid at thirty years. This bill proposes to extend a certain form of indebtedness of the municipality to a possible fifty years. The fact that this indebtedness is to be paid in a certain prescribed manner and out of certain specific property of the municipality, does not in any way change the requirement. The bonds issued under direction of the city by ordinance of the councils of the city will be executed by officials representing the city and will be an obligation of the city to the extent of the terms contained in them. The constitutional requirement seems to be entirely irrespective of what property is owned by the municipality or may be applied by it to the payment of the indebtedness. If that requirement could be escaped by dividing the indebtedness of the municipality in such a way that a certain proportion of it should be paid from one part of its property and the other portion from other parts of its property, the provision could be entirely nullified. It is an unthinkable legal proposition that there may be obligations issued by the city which shall not constitute a part of the indebtedness of the city and the fact that they are to be met at maturity in a specified way with means provided out of certain property seems to be immaterial.

SAML. W. PENNYPACKER.

No. 55.

AN ACT

To prohibit the appointment of deputy constables in counties containing over one million inhabitants.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be unlawful for any constable, in any county containing more than one million inhabitants, to appoint or deputize any person to serve or execute any civil or criminal process.

Section 2. That the one hundred and thirteenth section of the act of Assembly of April fifteenth, one thousand eight hundred and thirty-four, entitled "An act relating to counties and townships, and county and township officers," which reads as follows: "No deputy shall be appointed by any constable, either by general or partial deputation, without the approbation of the court of quarter sessions of the proper county first had and obtained, except the same be made specially in some civil suit or proceeding at the request and risk of the plaintiff or his agent," and the one hundred and fourteenth section of the same act, which reads as follows: "In the event of the death, inability, or refusal to act, of his deputy, the constable of any township may, with the approbation of any one of the judges of the court of quarter sessions of the same county, appoint another deputy, with full authority to act as such until the next regular spring session of such court, and for the acts of such deputy the constable and his sureties shall be liable as in other cases, and in every such case the constable shall file a written copy of such deputation in the office of the clerk of the court of quarter sessions of such county," be and the same are hereby repealed, so far as they affect counties containing more than one million inhabitants.

Section 3. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 29, 1903.

I herewith file in the office of the Secretary of the Commonwealth, with my objections thereto, House bill No. 329, entitled "An act to prohibit the appointment of deputy constables in counties containing over one million inhabitants."

The title to the act is defective. The bill consists of three sections. The reference in the title is to the first section alone. That section in express terms makes it unlawful for any constable in any county containing more than one million inhabitants to appoint or deputize any person to serve or execute any civil or criminal process. A striking feature of the act, however, is contained in the second section, which repeals, so far as counties containing more than one million inhabitants are concerned, the provisions of sections 113 and 114 of the act of Assembly of April 15, 1834, entitled "An act relating to counties and townships and county and township officers." The third section repeals all acts or parts of acts incon-

sistent with the provisions of the bill. No hint of these repeals—two of which are specific and important—is given in the title.

Apart from this, my disapproval is based on other grounds. The 113th section of the act of Assembly of April 15, 1834, expressly provides that "No deputy shall be appointed by any constable, either by general or partial deputation, without the approval of the court of quarter sessions of the proper county first had and obtained, except the same be made specially in some civil suit or proceeding at the request and risk of the plaintiff or his agent." The 114th section of the same act provides that "In the event of the death, inability or refusal to act of his deputy, the constable of any township may, with the approbation of any one of the judges of the court of quarter sessions of the same county, appoint another deputy with full authority to act as such until the next regular spring session of such court, and for the acts of such deputy the constable and his sureties shall be liable as in other cases, and in every such case the constable shall file a written copy of such deputation in the office of the clerk of the court of quarter sessions of such county."

Under this act a system has been established under judicial supervision which is now nearly seventy years old. In the main it has worked satisfactorily. In my judgment it is unwise to disturb it. If the power to appoint deputy constables be entirely removed, it would leave the public without the protection which experience has shown to be both necessary and salutary. The needs of great cities require, in many emergencies, services of this character. There is no provision made by the present bill, by way of substitute for the existing system, by which the work could be satisfactorily accomplished. To-day, deputies, when necessary, are appointed under the supervision of the courts of quarter sessions. It is now sought to take away this power, and that, too, without any substitute whatever. The effect of this bill would be to deprive counties containing over one million inhabitants of the protection and supervision of the court of quarter sessions in the appointment of deputy constables, while allowing the remainder of the State to enjoy the benefit of judicial supervision in the important matter of scrutinizing the character of applicants for the position of deputy constable and of approving their bondsmen and sureties.

SAML. W. PENNYPACKER.

No. 56.

AN ACT

To prohibit the employment, at any work or labor, of any minor child, under the age of twenty-one years, in or around any anthracite coal mine or colliery, for more than eight hours a day; providing a method whereby the employers of labor may ascertain such age, and providing a penalty for non-compliance with the provisions of this act.

Section 1. Be it enacted, &c., That on and after the first day of April, Anno Domini one thousand nine hundred and six, it shall be unlawful for any person, firm, partnership or corporation, or the

agents of any such person, firm, partnership or corporation, to employ at any work or labor in or around any anthracite coal mine or colliery, any minor child under the age of twenty-one years, for more than eight hours per day.

Section 2. Any employer of labor in and around any such anthracite coal mine or colliery, may demand from the person or perpersons applying for work an affidavit, duly taken before some one authorized to administer an oath, that the person or persons so applying for work are above the age of twenty-one years, and if a legal affidavit is duly furnished to said employer of labor in and around any anthracite coal mine or colliery, the said affidavit, when produced in court, shall be a full answer to any suit or demand for the penalty imposed by this act.

Section 3. Any person, firm, partnership or corporation violating the provisions of this act shall be subject to a penalty of five hundred dollars for each and every offense, which penalty shall be collected by suit instituted in the court of common pleas of the county in which the offense was committed; said suit to be instituted by the Chief of the Bureau of Mines and Mining of this Commonwealth, and the fine so collected to be paid into the Treasury of this Commonwealth.

Section 4. If thirty or more citizens of this Commonwealth shall bring to the notice of the said Chief of the Bureau of Mines and Mining, by affidavit properly brought before him, that any person, firm, partnership or corporation is violating the provisions of this act, and the said Chief of the Bureau of Mines and Mining shall, within thirty days from that date, fail to institute suit against the party so offending, as provided for by this act, then in that case it shall be the right of any citizen of this Commonwealth to institute said suit, in the name of and to the use of the Commonwealth of Pennsylvania: Provided, however, That if any citizen or citizens shall institute suit, as provided for in this section, the citizen or citizens so instituting said suit shall be liable for the costs of said suit.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 6, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 72, entitled "An act to prohibit the employment at any work or labor of any minor child under the age of twenty-one years in or around any anthracite coal mine or colliery for more than eight hours a day, providing a method whereby the employers of labor may ascertain such age and providing a penalty for non-compliance with the provisions of this act."

This bill provides that on and after the first day of April, 1906, it shall be unlawful to employ at any work or labor "in or around any anthracite coal mine or colliery any minor child under the age of twenty-one years for more than eight hours per day." For the violation of the provisions of the bill it imposes a penalty of $500 for each and every offense.

There are a number of serious objections to this bill. It does not go into effect for three years and would therefore seem to be legislation for the future rather than for the present and to be an attempt to anticipate the action of the next Legislature. It is limited to the employment of children in anthracite coal mines. There is always more or less competition between the miners of anthracite and the miners of bituminous coal and if it became a law, it would appear to give to the miners of bituminous coal an undue advantage.

There is no definition of what constitutes labor around a coal mine or colliery. There may be some kinds of employment around a coal mine which would be in no way injurious to children and subject them to no danger. As for instance, the carrying of their meals to those employed about the mines. The bill is to be enforced by the Chief of the Bureau of Mines and Mining of this Commonwealth, who in the event of a violation of its provisions, is to bring suit against the employer of the minor. The act creating the Bureau of Mines was repealed by the act approved the 14th day of April, 1903, and there is now no chief of the Bureau of Mines and Mining and probably will be none when this bill is intended to go into effect.

The bill further provides that in the event of the chief of the Bureau of Mines and Mining failing to institute suit against the party offending, it shall be the right of any citizen to institute a suit in the name of the Commonwealth: "Provided, however, That if any citizen or citizens shall institute suit as provided for in this section, the citizen or citizens so instituting said suit shall be liable for the costs of said suit." The wisdom of permitting any individual to use the name of the Commonwealth in bringing suit is at least doubtful, but if he should be permitted so to sue there seems to be no propriety in imposing upon him the costs in the event that he recovers judgment.

SAML. W. PENNYPACKER.

No. 57.

AN ACT

To amend section one of an act, entitled "An act fixing a common basis from which to calculate the earnings of miners or persons working in coal mines," approved the thirtieth day of March, Anno Domini one thousand eight hundred and seventy-five, so as to make the ton of two thousand two hundred and forty pounds the basis from which to calculate the earnings of miners or persons working in coal mines.

Section 1. Be it enacted, &c., That the first section of an act of the General Assembly, approved the thirtieth day of March, one thousand eight hundred and seventy-five, entitled "An act fixing a common basis from which to calculate the earnings of miners or persons working in coal mines," which reads as follows:

"That all persons, partnerships, associations and corporations engaged in mining of anthracite coal in this Commonwealth, shall provide and erect at each of their coal mines or collieries, standard and lawful scales for weighing the coal mined therein; and each

and every miner's coal shall be separately and accurately weighed on said scales before said coal is dumped and taken from the car on which said miner loaded it in the said mine or colliery, and a separate and accurate account shall be kept by all said persons, partnerships, associations and corporations of the number of pounds of coal mined by each miner as aforesaid; and the miners in each mine shall have the right to employ, at their own expense, and keep a weigh-master at each of said scales to inspect said scales, and also keep an account of the number of pounds of coal mined by each miner; and the miners at each mine or colliery shall be paid at the rate of so much per pound for amount of coal mined by them, and the pound weight shall be the basis from which to calculate the earnings at all mines or collieries: Provided, That the provisions of this act shall apply only to mines or collieries in which the coal mined has heretofore been paid for by the car, and that this act shall not go into effect until sixty days after its approval by the Governor: And provided further, That if any of said persons, partnerships, associations or corporations shall neglect or refuse to comply with the provisions of this act, he or they so neglecting or refusing shall forfeit and pay, for every day said neglect or refusal after said sixty days, to the Commonwealth of Pennsylvania the sum of one hundred dollars, the same to be sued for and recovered in an action of debt in the court of common pleas having jurisdiction of the territory in which said mines or collieries may be situate, the writs in said action to be served on the said persons, partnerships, association or corporation, or the superintendents, agents, or clerks of said persons, partnerships, associations or corporations resident within the jurisdiction of said court: And provided further, That the provisions of this act shall not apply to or embrace any persons, partnerships, associations or corporations that may or shall by any contract agree with his or their miners in any of said mines or collieries, otherwise than is provided in this act, for the compensation of mining the same, and no penalty provided therein shall apply to such persons, partnerships, associations or corporations so contracting or agreeing," be and the same is hereby amended to read as follows:

That persons, partnerships, associations and corporations, engaged in the mining of anthracite coal in this Commonwealth, shall provide and erect at each of their coal mines or collieries standard and lawful scales for weighing the coal mined therein; and each and every miner's coal shall be separately and accurately weighed on said scale before said coal is dumped and taken from the car on which said miner loaded it in said mine or colliery, and a separate and accurate account shall be kept by all of said persons, partnerships, associations and corporations of the number of tons or fractional parts thereof of coal mined by each miner, as aforesaid; and the miners in each mine shall have the right to employ, at their own expense, and keep a weigh-master at each of said scales, to inspect said scales and also to keep an account of the number of tons or fractional parts thereof of coal mined by each miner; and the miners at each mine or colliery shall be paid at the rate of so much per ton, as may be mutually agreed upon by and between the miners and operators, or their representatives, for all coal mined,

and twenty-two hundred and forty pounds shall constitute a ton, and the said ton of twenty-two hundred and forty pounds shall be the basis from which to calculate the earnings at all mines or collieries: And provided, That the provisions of this act shall not go into effect until one hundred and twenty days after its approval by the Governor: Provided further, That if any of said persons, partnerships, associations or corporations shall neglect or refuse to comply with the provisions of this act, he or they so neglecting or refusing shall forfeit and pay, for every day of said neglect or refusal after said one hundred and twenty days, to the Commonwealth of Pennsylvania, the sum of one hundred dollars, the same to be sued for and recovered in an action of debt, in the court of common pleas having jurisdiction of the territory in which said mines or colileries may be situate; the writs in said action or actions to be served on the said persons, partnership, association or corporation, or the superintendents, agents or clerks of said persons, partnerships, associations or corporations resident within the jurisdiction of said court: And provided further, That the provisions of this act shall not apply to or embrace any persons, partnerships, associations or corporations that may or shall by any contract agree with his or their miners in any of said mines or collieries, otherwise than is provided in this act, for the compensation of mining the same, and no penalty provided therein shall apply to such persons, partnerships, associations or corporations so contracting or agreeing: And provided further, That the provisions of this act shall apply only to mines and collieries in the Anthracite coal fields of Pennsylvania.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 7, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 202, entitled "An act to amend section one of an act, entitled 'An act fixing a common basis from which to calculate the earnings of miners or persons working in coal mines,' approved the thirtieth day of March, Anno Domini one thousand eight hundred and seventy-five, so as to make the ton two thousand two hundred and forty pounds the basis from which to calculate the earnings of miners or persons working in coal mines."

The purpose of this bill is to provide for the erection at each of the anthracite coal mines scales for weighing the coal, so that each and every miner's coal shall be separately and accurately weighed and that the miners shall be paid at the rate of so much per ton of 2,240 pounds. If this were all that the bill contained, it would seem to be unobjectionable, but it has followed the bad precedent of the act of the 30th of March, 1875, which it seeks to amend, and it endeavors to play certain pranks with legislation. It among other things directs "that the provisions of this act shall not go into effect until one hundred and twenty days after its approval by the Governor." The provisions of the act are that another act shall be amended. What is the situation of the prior act during the

interval? Is it amended or is it not? When a Governor signs a bill which has been properly passed and certified to him from the Legislature, it becomes a law and it is impossible to prevent its provisions from going into effect. They go into effect as of course and at once.

The bill further directs "that the provisions of this act shall not apply to or embrace any persons, partnerships, associations or corporations that may or shall by any contract agree with his or their miners in any of said mines or collieries otherwise than is provided in this act for the compensation of mining the same." In other words, the act is to apply to certain persons and is not to apply to certain other persons. It is not to apply upon the happening of an uncertain event in the future and is, therefore, not legislation at all. It must be obvious too that if this provision could be enforced, it would not accomplish what is intended. If agreements are made with the miners otherwise, then the act is not to apply to the proprietors of mines making such agreements. Agreements are made to last for a certain interval of time. It may be a week, it may be a year. Agreements are sometimes rescinded and are sometimes broken by one party or the other. What is to happen in the event of the expiration of the agreement, the bill does not determine.

SAML. W. PENNYPACKER.

No. 58.

AN ACT

Amending article two of an act, entitled "An act to provide for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania, and for the protection and preservation of property connected therewith," approved the eighth day of June, Anno Domini nineteen hundred and one.

Section 1. Be it enacted, &c., That article two of an act, entitled "An act to provide for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania and for the protection and preservation of property connected therewith," approved the eighth day of June, Anno Domini one thousand nine hundred and one, which reads as follows, namely:

ARTICLE II.

Inspectors and Inspection Districts.

"Section 1. The counties of Luzerne, Lackawanna, Carbon, Schuylkill, Northumberland, and Columbia shall be divided into six inspection districts as follows:

"Section 2. First district—The county of Luzerne.
Second district—The county of Lackawanna.
Third district—The county of Carbon.
Fourth district—The county of Schuylkill.
Fifth district—The county of Northumberland.
Sixth district—The county of Columbia.

"Section 3. In order to fill any vacancy that may occur in the office of Inspector of Mines by reason of the expiration of term, resignation, removal for cause, or from any other reason whatever, the judges of the court of Lackawanna county shall appoint an examining board for the county of Lackawanna, and the judges of the court of Luzerne county shall appoint an examining board for the counties of Carbon and Luzerne, and the judges of Schuylkill county shall appoint an examining board for the counties of Schuylkill, Northumberland, and Columbia.

"Section 4. The said Board of Examiners shall be composed of three reputable coal miners in actual practice and two reputable mining engineers, all of whom shall be appointed at the first term of court in each year, to hold their places during the year. Any vacancies that may occur in the Board of Examiners shall be filled by the court as they occur. The said Board of Examiners shall be permitted to engage the services of a clerk, and they, together with the clerk, shall each receive the sum of five (5) dollars per day for every day they are actually engaged in the discharge of their duties under this appointment, and mileage at the rate of six cents per mile from their home to the place of meeting and return, by the nearest practicable railway route.

"Section 5. Whenever candidates for the office of Inspector are to be examined, the said examiner shall give public notice of the fact in not more than five newspapers published in the inspection district, and at least two weeks before the meeting, specifying the time and place where such meeting shall be held. The said examiners shall be sworn to a faithful discharge of their duties, and at least four of them shall sign a certificate, setting forth the fact of the applicants having passed a successful examination, and who have answered ninety per centum of the questions; the names of the applicants, the questions asked and answered thereto, shall be sent to the Secretary of the Commonwealth, and published in at least two papers, daily or weekly, and shall give such certificate to only such applicant as has passed the required examination.

"Section 6. The Board of Examiners shall hold at least one such examination during each year, at least six months before the date of the general election in the month of November of each year.

"Section 7. At the next general election in November, the qualified voters of the first inspection district shall elect five qualified persons to act as Mine Inspectors of this Commonwealth; the qualified voters of the Second Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth; the qualified voters of the Third Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth; the qualified voters of the Fourth Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth; the qualified voters of the Fifth Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth: Provided, That the present Mine Inspectors in the several inspection districts shall continue in the office until the expiration of the terms for which they have been appointed, and the number of Inspectors to be elected at the coming election shall be reduced by the number of Inspectors now regularly appointed and serving in

said districts. When the terms of the present Inspectors shall expire, their successors shall be elected in accordance with the provisions of this act. At the said first election under this act in November, Anno Domini one thousand nine hundred and two, for said Inspectors, the qualified electors of the first inspection district shall elect two inspectors; the qualified electors of the second inspection district shall elect two Inspectors; the qualified electors of the fourth inspection district shall elect two Inspectors; the qualified electors of the fifth inspection district shall elect one Inspector, and the qualified electors of the sixth inspection district shall elect one Inspector. At the expiration of the term of office of any of the present Inspectors, who hold office under the appointment of the Governor of the Commonwealth, the qualified electors of the third inspection district shall elect one Inspector, and as further vacancies are caused by the expiration of the term of office of the present Inspectors, the qualified electors of the several inspection districts shall elect Inspectors to take their places, beginning with the first inspection district, then the second inspection district, third inspection district, fourth inspection district, fifth inspection district, and sixth inspection district, until each inspection district has its full quota of elected Inspectors under this act. Said Inspectors, elected under this act, shall be under the direction of the Chief of the Bureau of Mines, who shall assign districts to the several Inspectors in the respective counties in which they are elected.

"Section 8. Candidates for the office of Mine Inspector shall file with the county commissioners a certificate from the mine examining board, as above set forth, before their names shall be allowed to go upon the ballot as provided by the county commissioners for the general election; and the name of no person shall be placed upon the official ballot except such as has filed the certificate as herein required; and no person shall be qualified to act as such Mine Inspector unless such certificate has been previously filed with the county commissioners of his county.

"Section 9. The person so elected must be a citizen of Pennsylvania and shall have attained the age of thirty years. He must have a knowledge of the different systems of work in coal mines, and he must produce satisfactory evidence to the Board of Examiners of having had at least five years practical experience in the anthracite coal mines of Pennsylvania. He must have had experience in coal mines where noxious and explosive gases are evolved.

"Before entering upon the duties of his office he shall take an oath or affirmation, before an officer properly qualified to administer the same, that he will perform his duties with fidelity and impartiality, which oath or affirmation shall be filed in the office of the prothonotary of the county. He shall provide himself with the most modern instruments and appliances for carrying out the intentions of this act.

"Section 10. The salary of each of the said Inspectors shall be three thousand dollars per annum, which salary, together with the expenses incurred into effect the provisions of this act, shall be paid by the State Treasurer out of the Treasury of the Commonwealth upon the warrant of the Auditor General.

"Section 11. Each of the said Inspectors shall hold said office for a term of three years from the first Monday of January immediately succeeding his election to said office, and until his successor is duly elected and qualified.

"Section 12. It shall be the duty of the Chief of Bureau of Mines and Mining to direct one or more of the Inspectors who shall be elected under this act, and it shall be the duty of said Inspectors to obey said orders of the said Chief of Bureau of Mines and Mining, to inspect such collieries as come under the act to which this act is an amendment to said act, in such manner and at such times as is required by law, and the inspectors inspecting said collieries shall make and include in his return a due report of said inspection.

"Section 13. In case of death, resignation, removal from office, or other vacancies in the office of Mine Inspector before the expiration of said term of office, the judges of the court of common pleas of the county in which said vacancy occurs shall appoint a duly qualified person to fill said vacancy for the unexpired term. Said appointee to be one of the persons having filed with the county commissioners of said county a certificate from the Board of Examiners, showing he passed a successful examination before said Board, and is duly qualified as hereinbefore mentioned.

"Section 14. In case the Inspector becomes incapacitated to perform the duties of his office for a longer period than the two weeks, it shall be the duty of the judges of the court of common pleas of the county from which said Inspector was elected to deputize some competent person, recommended by the Board of Examiners, to fill the office of Inspector until the said Inspector shall be able to fulfill the duties of his office, and the person so appointed shall be paid in the same manner as is provided for the Inspector of Mines.

"Section 15. Each of the said Inspectors shall reside in the district for which he is elected, and shall give his whole time and attention to the duties of his office. He shall examine all the collieries in his district at least once in every two months, as often in addition thereto as the necessities of the case or the condition of the mines require. He shall see that every necessary precaution is taken to secure the safety of the workmen and that the provision of this act are observed and obeyed; and he shall personally visit each working face and see that the air-current is carried to the working faces and is of sufficient quantity or volume to thoroughly ventilate the places. He shall every three months make a report of the condition of each working face in each colliery, on a form to be furnished to the Inspectors by the Chief of the Bureau of Mines and Mining, designating the gangway in which the working is situated, and the breast number of said working, and their condition shall be designated by the words good, fair, or bad, as the circumstances may warrant; and the said report, or a duplicate, shall be placed in a weather and dust-proof case, with a glass front; said case to be furnished by the operator, and placed in a conspicuous place at each mine opening, shaft, slope or drift, so that the workmen have easy access thereto. He shall certify in said report that the employes are hoisted to the surface of the ground or given access thereto according to law; he shall attend every inquest held by the coroner or his deputy upon the bodies of persons killed in or about the mines in his district; he shall visit the scene of the

accident, for the purpose of making an examination into the particulars of the same, whenever loss of life or serious personal injuries occurs, as elsewhere herein provided for; and make an annual report of his proceedings to the Secretary of Internal Affairs of the Commonwealth at the close of every year, enumerating all the accidents in and about the collieries in his district, marking in tabular form those accidents causing death or serious personal injury, the conditions of the workings of the said mines with regard to the safety of the workmen therein and the ventilation thereof, and the results generally shall be fully set forth; and such other duties as now are or hereafter may be required by law.

"Section 16. The nomination and election of said Mine Inspectors shall be under the general election laws of this Commonwealth.

"Section 17. The Mine Inspector shall have the right, and it is hereby made his duty, to enter, inspect and examine any mine or colliery in the territory alloted to him and the workings and machinery belonging thereto, at all reasonable times; either by day or by night, but not so as to obstruct or impede the workings of the colliery, and shall have power to take one or more of his fellow Inspectors into or around any mine or colliery in the territory alloted to him, for the purpose of consultation or examination.

"He shall also have the right, and it is hereby made his duty, to make inquiry into the condition of such mine or colliery workings, machinery, ventilation, drainage, method of lighting or using lights, and into all matters and things connected with or relating to, as well as to make suggestions providing for, the health and safety of persons employed in or about the same, and especially to make inquiry whether the provisions of this act have been complied with.

"The owner, operator or superintendent of such mine or colilery is hereby required to furnish the means necessary for such entry, inspection, examination, inquiry, and exit.

"The Inspector shall make a record of the visit, noting the time and material circumstances of the inspection.

"Section 18. No person who shall act or practice as a land agent, or as a manager or agent of any coal mine or colliery, who is pecuniarily interested in operating any coal mine or colliery, shall at the same time hold the office of Inspector of Mines under this act.

"Section 19. Whenever a petition signed by fifty or more reputable coal miners, or by fifteen or more coal operators, or more, or both, setting forth that any Inspector of Mines neglect his duty, or is incompetent, or is guilty of malfeasance in office, it shall be the duty of the court of common pleas from which said Inspector was elected to issue a citation, in the name of the Commonwealth, to the said Inspector to appear at not less than five days' notice, on a day fixed, before said court, and the court shall then proceed to inquire into and investigate the allegations of the petitioners. If the court finds that the said Inspector is neglectful of his duties of office, or is incompetent to perform the duties of his office for any cause that existed previous to his election, or that has arisen since his election, or that he is guilty of malfeasance in office, the court shall then declare the said Inspector removed from office, and proceed to fill the vacancy. The cost of said investigation shall be borne by the removed Inspector; but if the allegations in the petition are not sustained, the cost shall be paid by the Treasurer

of this Commonwealth, upon warrant of the Auditor General, or by the petitioners in case the court finds that there was no probable ground for said charge.

"Section 20. The maps and plans of the mines and the records thereof, together with all the papers relating thereto, shall be kept by the inspector, properly arranged, and preserved in a convenient place in the territory to which the Inspector has been alloted, and shall be transferred by him, with any property of the Commonwealth that may be in his possession, to his successor in office.

"Section 21. This act shall go into effect from the first day of January, Anno Domini one thousand nine hundred and two.

"Section 22. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed," be amended so as to read as follows:

ARTICLE II.

Inspectors and Inspection Districts.

Section 1. The counties of Luzerne, Lackawanna, Carbon, Schuylkill, Northumberland, Columbia and Dauphin shall be divided into seven inspection districts, as follows:

First district—The county of Luzerne.
Second district—The county of Lackawanna.
Third district—The county of Carbon.
Fourth district—The county of Schuylkill.
Fifth district—The county of Northumberland.
Sixth district—The county of Columbia.
Seventh district—The county of Dauphin.

Section 2. When any other county, by the report of the Bureau of Mines and Mining of this Commonwealth, shall be shown to have employed in said county five thousand or more employes, working in and around the anthracite coal mines in said county, the said county shall be entitled to become a separate Inspection district; and it shall be the duty of the Chief of the Bureau of Mines and Mining of this Commonwealth, when it shall be shown to him that such county has employed within its borders the five thousand or more employes in and around the anthracite coal mines of said county, to designate said county as a separate Inspection District, giving the said Inspection District a separate number; and also certify to the judges of the court of common pleas of said county that the said county, having employed within its borders the required number of employes, as required by this section, has been erected into a separate Inspection District, giving the name or number of said district; whereupon the said judges of said county shall appoint a duly qualified person to the office of Mine Inspector until the next general election. Any Inspection District created by the provisions of this section of this act, shall, immediately upon its erection into said separate Inspection District, be governed by and subject to all the provisions of this act.

Mine Inspectors Examining Board.

Section 3. There shall be established in each of the Inspection Districts in the anthracite coal region a board, to be styled the "Mine Inspectors' Examining Board," to consist of five qualified voters of each inspection district, two of whom shall be reputable mining engineers, and three of whom shall be duly qualified miners; all of whom shall be elected in their respective districts at the next general election in November, and all of whom shall be elected for a term of one year, and annually thereafter. The said persons, so elected in the several counties, shall be and constitute in their own several respective districts the "Mine Inspectors Examining Board" for their own respective districts, and shall hold the office for the term for which they were elected, or until their successors are duly elected and qualified, and shall receive as compensation for their services the sum of five dollars per day for every day they are actually engaged in the discharge of their duties, and mileage at the rate of six cents per mile from their home to the place of meeting and return, by the nearest practicable railway route. The said Mine Inspectors Examining Board shall be permitted to engage the services of a clerk, who shall also be entitled to the sum of five dollars per day for every day actually engaged in the discharge of his duties. The term of office of the said members of the mine inspectors examining board shall commence on the first Monday in January. In case of a vacancy from any cause in the membership of the said Mine Inspectors' Examining Board, the Governor of the Commonwealth shall appoint some duly qualified person to fill said vacancy. It shall further be the duties of the county commissioners wherein these boards are to be elected, to so prepare the form of ballot as to clearly designate to the voters which of the candidates for the office of member of the Mine Inspectors' Examining Board are mining engineers and which of the candidiates are miners, and the number of candidates for which each voter is entitled to vote, so as to fully and clearly carry out the spirit and intention of this act. The election for said office of member of the Mine Inspectors' Examining Board shall be held under the general election laws of this Commonwealth.

Section 4. Whenever candidates for the office of inspector are to be examined, the said examiners shall give public notice of the fact in not more than five newspapers published in the inspection district, and at least two weeks before the meeting, specifying the time and place where such meeting shall be held. The said examiners shall be sworn to a faithful discharge of their duties, and at least four of them shall sign a certificate, setting forth the fact of the applicants having passed a successful examination, and who have answered ninety per centum of the questions asked and answered thereto, shall be sent to the Secretary of the Commonwealth, and published in at least two papers, daily or weekly, and shall give such certificate to only such applicant as has passed the required examination.

Section 5. The said Mine Inspectors Examining Board shall hold at least one such examination during each year, at least six months before the date of the general election in the month of November of each year, and the questions which shall be asked by said Mine

Inspectors' Examining Board shall be only such questions as a good, practical miner should be able to answer.

Section 6. At the next general election in November, the qualified voters of the First Inspection district shall elect five qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Second Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Third Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, the qualified voters of the Fourth Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Fifth Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, the qualified voters of the Sixth Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, and at the general election in November, Anno Domini one thousand nine hundred and three, the qualified voters of the Seventh Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth: Provided, That the present Mine Inspectors in the several inspection districts shall continue in office until the expiration of the terms for which they have been appointed, and the number of Inspectors to be elected at the coming election shall be reduced by the number of Inspectors now regularly appointed and serving in said districts. When the terms of the present Inspectors shall expire, their successors shall be elected in accordance with the provisions of this act. At the said first election under this act, in November, Anno Domini one thousand nine hundred and two, for said Inspectors, the qualified electors of the First Inspection district shall elect two Inspectors, the qualified electors of the Second Inspection district shall elect two Inspectors, the qualified electors of the Fourth Inspection district shall elect two Inspectors, the qualified electors of the Fifth Inspection district shall elect one Inspector, and the qualified electors of the Sixth Inspection district shall elect one Inspector, and at the general election in November, Anno Domini one thousand nine hundred and three, the qualified voters of the Seventh Inspection district shall elect one qualified person to act as Mine Inspector. At the expiration of the term of office of any of the present Inspectors, who hold office under the appointment of the Governor of the Commonwealth, the qualified electors of the Third Inspection district shall elect one Inspector, and as further vacancies are caused by the expiration of the term of office of the present Inspectors, the qualified electors of the several Inspection Districts shall elect Inspectors to take their places, beginning with the First Inspection district, then the Second Inspection district, Fifth Inspection district, and Sixth Inspection district, until each inspection district has its full quota of elected Inspectors under this act. Said Inspectors, elected under this act, shall be under the direction of the Chief of the Bureau of Mines, who shall assign districts to the Several Inspectors in the respective counties in which they are elected: Provided, however, That where the Chief of the Bureau of Mines shall decide that any Inspector elected under this act can justly perform more work than the duties of his office require in the county or inspection district for which he has been elected, the

Mine Inspectors Examining Board.

Section 3. There shall be established in each of the Inspection Districts in the anthracite coal region a board, to be styled the "Mine Inspectors' Examining Board," to consist of five qualified voters of each inspection district, two of whom shall be reputable mining engineers, and three of whom shall be duly qualified miners; all of whom shall be elected in their respective districts at the next general election in November, and all of whom shall be elected for a term of one year, and annually thereafter. The said persons, so elected in the several counties, shall be and constitute in their own several respective districts the "Mine Inspectors Examining Board" for their own respective districts, and shall hold the office for the term for which they were elected, or until their successors are duly elected and qualified, and shall receive as compensation for their services the sum of five dollars per day for every day they are actually engaged in the discharge of their duties, and mileage at the rate of six cents per mile from their home to the place of meeting and return, by the nearest practicable railway route. The said Mine Inspectors Examining Board shall be permitted to engage the services of a clerk, who shall also be entitled to the sum of five dollars per day for every day actually engaged in the discharge of his duties. The term of office of the said members of the mine inspectors examining board shall commence on the first Monday in January. In case of a vacancy from any cause in the membership of the said Mine Inspectors' Examining Board, the Governor of the Commonwealth shall appoint some duly qualified person to fill said vacancy. It shall further be the duties of the county commissioners wherein these boards are to be elected, to so prepare the form of ballot as to clearly designate to the voters which of the candidates for the office of member of the Mine Inspectors' Examining Board are mining engineers and which of the candidiates are miners, and the number of candidates for which each voter is entitled to vote, so as to fully and clearly carry out the spirit and intention of this act. The election for said office of member of the Mine Inspectors' Examining Board shall be held under the general election laws of this Commonwealth.

Section 4. Whenever candidates for the office of inspector are to be examined, the said examiners shall give public notice of the fact in not more than five newspapers published in the inspection district, and at least two weeks before the meeting, specifying the time and place where such meeting shall be held. The said examiners shall be sworn to a faithful discharge of their duties, and at least four of them shall sign a certificate, setting forth the fact of the applicants having passed a successful examination, and who have answered ninety per centum of the questions asked and answered thereto, shall be sent to the Secretary of the Commonwealth, and published in at least two papers, daily or weekly, and shall give such certificate to only such applicant as has passed the required examination.

Section 5. The said Mine Inspectors Examining Board shall hold at least one such examination during each year, at least six months before the date of the general election in the month of November of each year, and the questions which shall be asked by said Mine

Inspectors' Examining Board shall be only such questions as a good, practical miner should be able to answer.

Section 6. At the next general election in November, the qualified voters of the First Inspection district shall elect five qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Second Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Third Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, the qualified voters of the Fourth Inspection district shall elect four qualified persons to act as Mine Inspectors of this Commonwealth, the qualified voters of the Fifth Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, the qualified voters of the Sixth Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth, and at the general election in November, Anno Domini one thousand nine hundred and three, the qualified voters of the Seventh Inspection district shall elect one qualified person to act as Mine Inspector of this Commonwealth: Provided, That the present Mine Inspectors in the several inspection districts shall continue in office until the expiration of the terms for which they have been appointed, and the number of Inspectors to be elected at the coming election shall be reduced by the number of Inspectors now regularly appointed and serving in said districts. When the terms of the present Inspectors shall expire, their successors shall be elected in accordance with the provisions of this act. At the said first election under this act, in November, Anno Domini one thousand nine hundred and two, for said Inspectors, the qualified electors of the First Inspection district shall elect two Inspectors, the qualified electors of the Second Inspection district shall elect two Inspectors, the qualified electors of the Fourth Inspection district shall elect two Inspectors, the qualified electors of the Fifth Inspection district shall elect one Inspector, and the qualified electors of the Sixth Inspection district shall elect one Inspector, and at the general election in November, Anno Domini one thousand nine hundred and three, the qualified voters of the Seventh Inspection district shall elect one qualified person to act as Mine Inspector. At the expiration of the term of office of any of the present Inspectors, who hold office under the appointment of the Governor of the Commonwealth, the qualified electors of the Third Inspection district shall elect one Inspector, and as further vacancies are caused by the expiration of the term of office of the present Inspectors, the qualified electors of the several Inspection Districts shall elect Inspectors to take their places, beginning with the First Inspection district, then the Second Inspection district, Fifth Inspection district, and Sixth Inspection district, until each inspection district has its full quota of elected Inspectors under this act. Said Inspectors, elected under this act, shall be under the direction of the Chief of the Bureau of Mines, who shall assign districts to the Several Inspectors in the respective counties in which they are elected: Provided, however, That where the Chief of the Bureau of Mines shall decide that any Inspector elected under this act can justly perform more work than the duties of his office require in the county or inspection district for which he has been elected, the

Chief of the Bureau of Mines may assign such Mine Inspector to also perform work or duties in any other county or counties, or inspection district or districts, nearest his own district, wherein additional help or assistance is needed. It is expressly declared, however, that the Chief of the Bureau of Mines and Mining shall not have the right to assign any Mine Inspector, elected under this act, to any other inspection district, outside of the inspection district wherein he shall have been elected, except only when said Mine Inspector shall not have enough work or duties to perform in his own inspection district as should properly and justly be performed under this act; and it shall be the right of said Mine Inspector, so assigned to duties in any inspection district or districts other than the one in which he shall have been elected, to petition the court to remedy any such assignment of duties contrary to the provisions of this act.

Section 7. Candidates for the office of Mine Inspector shall file with the county commissioners a certificate from the Mine Inspectors' Examining Board, as above set forth, before their names shall be allowed to go upon the ballot as provided by the county commissioners for the general election; and the name of no person shall be placed upon the official ballot except such as has filed the certificate as herein required; and no persons shall be qualified to act as such Mine Inspector unless such certificate has been previously filed with the county commissioners of his county; such certificate, when filed, shall continue good, without further examinations to be required for each time the holder of said certificate shall become a candidate for said office, and a copy of said certificate granted, under the seal of the County Commissioners, may be filed in any county of this Commonwealth with like effect.

Section 8. The person so elected must be a citizen of Pennsylvania, and shall have attained the age of thirty years. He must have a knowledge of the different systems of work in coal mines, and he must produce satisfactory evidence to the Mine Inspectors' Examining Board of having had at least five years' practical experience in anthracite coal mines of Pennsylvania. He must have had experience in coal mines where noxious and explosive gases are evolved.

Before entering upon the duties of his office he shall take an oath or affirmation, before an officer properly qualified to administer the same, that he will perform his duties with fidelity and impartiality, which oath or affirmation shall be filed in the office of the prothonotary of the county. He shall provide himself with the most modern instruments and appliances for carrying out the intentions of this act.

Section 9. The salary of each of the said Inspectors shall be three thousand dollars per annum, which salary, together with the expenses incurred in carrying into effect the provisions of this act, shall be paid by the State Treasurer out of the Treasury of the Commonwealth, upon the warrant of the Auditor General.

Section 10. Each of the said Inspectors shall hold said office for a term of three years from the first Monday of January immediately succeeding his election to said office, and until his successor is duly elected and qualified.

Section 11. It shall be the duty of the Chief of Bureau of Mines and Mining to direct one or more of the Inspectors who shall be elected under this act, and it shall be the duty of said Inspector to obey said orders of the said Chief of Bureau of Mines and Mining, to inspect such collieries as come under the act to which this act is an amendment in counties not mentioned in this amendment to said act, in such manner and at such times as is required by law, and the Inspectors inspecting said collieries shall make and include in his return a due report of said inspection.

Section 12. In case of death, resignation, removal from office, or other vacancies in the office of Mine Inspector before the expiration of said term of office, the judges of the court of common pleas of the county in which said vacancy occurs shall appoint a duly qualified person to fill said vacancy for the unexpired term. Said appointee to be one of the persons having filed with the county commissioners of said county a certificate from the Mine Inspectors' Examining Board, showing he passed a successful examination before the said Board, and is duly qualified as hereinbefore mentioned.

Section 13. In case the Inspector becomes incapacitated to perform the duties of his office for a longer period than two weeks, it shall be the duty of the judges of the court of common pleas of the county from which said inspector was elected to deputize some competent person, recommended by the Mine Inspectors' Examining Board, to fill the office of Inspector until the said Inspector shall be able to fulfill the duties of his office, and the person so appointed shall be paid in the same manner as is provided for the Inspector of Mines.

Section 14. Each of the said inspectors shall reside in the district for which he is elected, and shall give his whole time and attention to the duties of his office. He shall examine all the collieries in his district at least once every three months, as often in addition thereto as the necessities of the case or the condition of the mines require. He shall see that every necessary precaution is taken to secure the safety of the workmen and that the provisions of this act are observed and obeyed; and he shall personally visit each working face, and see that the air-current is carried to the working faces and is of sufficient quantity of volume to thoroughly ventilate the places. He shall, every four months, make a report of the condition of each working face in each colliery, on a form to be furnished to the Inspectors by the Chief of the Bureau of Mines and Mining, designating the gangway in which the working is situated, and the breast number of said working, and their condition shall be designated by the words good, fair, or bad, as the circumstances may warrant; and the said report, or a duplicate, shall be placed in a weather and dust-proof case, with a glass front; said case to be furnished by the operator, and placed in a conspicuous place at each mine opening, shaft, slope or drift, so that the workmen have easy access thereto. He shall certify in said report that the employes are hoisted to the surface of the ground or given access thereto according to law; he shall attend every inquest held by the coroner or his deputy upon the bodies of persons killed in or about the collieries in his district; he shall visit the scene of the accident, for the purpose of making an examination into the particulars of the

same, wherever loss of life or serious personal injury occurs, as elsewhere herein provided for; and make an annual report of his proceedings to the Secretary of Internal Affairs of the Commonwealth, at the close of every year, enumerating all the accidents in and about the collieries in his district, marking in tabular form those accidents causing death or serious personal injury, the condition of the workings of said mines with regard to the safety of the workmen therein, and the ventilation thereof, and the results generally shall be fully set forth; and such other duties as now are or hereafter may be required by law.

Section 15. The nomination and election of said Mine Inspectors shall be under the general election laws of this Commonwealth.

Section 16. The Mine Inspector shall have the right, and it is hereby made his duty, to enter, inspect and examine any mine or colliery in the territory alloted to him, and the workings and machinery belonging thereto, at all reasonable times, either by day or by night, but not so as to obstruct or impede the working of the colliery; and shall have power to take one or more of his fellow inspectors into or around any mine or colliery in the territory alloted to him, for the purpose of consultation or examination.

He shall also have the right, and it is hereby made his duty, to make inquiry into the condition of such mine or colliery workings, machinery, ventilation, drainage, method of lighting or using lights, and into all matters and things connected with or relating to, as well as to make suggestions providing for the health and safety of persons employed in or about the same, and especially to make inquiry whether the provisions of this act have been complied with.

The owner, operator or superintendent of such mine or colliery is hereby required to furnish the means necessary for such entry, inspection, examination, inquiry, and exit.

The Inspector shall make a record of the visit, noting the time and material circumstances of the inspection.

Section 17. No person who shall act or practice as a land agent, or as a manager or agent of any coal mine or colliery, who is pecuniarily interested in operating any coal mine or colliery, shall at the same time hold the office of Mine Inspector under this act.

Section 18. Whenever a petition signed by fifty or more reputable coal miners or by fifteen or more reputable coal operators, or more, or both, setting forth that any Inspector of mines neglect his duties, or is incompetent, or is guilty of malfeasance in office, it shall be the duty of the court of common pleas from which said Inspector was elected to issue a citation, in the name of the Commonwealth, to the said inspector to appear, at not less than five days' notice, on a day fixed, before said court; and the court shall then proceed to inquire into and investigate the allegations of the petitioners. If the court finds that the said Inspector is neglectful of his duties, or is incompetent to perform the duties of his office, for any cause that existed previous to his election or that has arisen since his election, or that he is guilty of malfeasance in office, the court shall declare the said Inspector removed from office, and proceed to fill the vacancy. The cost of said investigation shall be borne by the removed Inspector; but if the allegations in the petition are not sustained, the cost shall be paid by the Treasurer of this Common-

wealth, on warrant of the Auditor General; or, by the petitioners, in case the court finds that there was no probable ground for said charge.

Section 19. The maps and plans of the mines and the records thereof, together with all the papers relating thereto, shall be kept by the inspector, properly arranged, and preserved in a convenient place in the territory to which the inspector has been alloted, and shall be transferred by him, with any other property of the Commonwealth that may be in his possession, to his successor in office.

Section 20. Wherever in this act the words "Bureau of Mines" or "Chief of the Bureau of Mines and Mining" is used, or similar words designating the Bureau or Chief of such Bureau, now having under its direction the Mine Inspectors of this Commonwealth, it shall be understood that, if the direction of the Mine Inspectors of this Commonwealth, or the enforcement of the laws relating to coal mining in this Commonwealth, shall be transferred by law to another department or bureau, in that case the name of the new Bureau or Department and the official title of the head or chief of said bureau or department, shall be submitted.

Section 21. This act shall go into effect from the first day of January, Anno Domini one thousand nine hundred and four (1904).

Section 22. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 7, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 204, entitled "An act amending article two of an act, entitled 'An act to provide for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania and for the protection and preservation of property connected therewith,' approved the eighth day of June, Anno Domini nineteen hundred and one."

The purpose of this bill is to provide a system for the selection of inspectors of coal mines. Among other duties of the inspectors, they are directed "to make inquiry into the condition of such mine or colliery workings, machinery, ventilation, drainage, method of lighting or using lights and into all matters and things connected with or relating to as well as to make suggestions providing for the health and safety of persons employed in or about the same." It thus appears that the mine inspectors are charged with serious and important responsibilities and are expected to be men possessed not only of good judgment but of extensive technical information. These inspectors are to be elected by the people. The people are not given the opportunity to exercise their own judgment as to the qualifications, but they are compelled to select the mine inspectors from among those who hold certificates from the mine inspectors' examining board. This board consists of five qualified voters of each election district, "two of whom shall be reputable mining engineers and three of whom shall be duly qualified miners,"

and the board is also to be elected by the people at a general election. It will, therefore, be seen that the success of the system depends upon the mine inspectors' examining board and that this board is so constituted that the majority of it shall be "duly qualified miners." It becomes important, therefore, to inquire what is a duly qualified miner? Under the act of May 9, 1889, Pamphlet Laws, 142, all persons who were actually engaged as miners at the time of its passage were entitled to registration without examination upon producing proof that they were then employed in an anthracite mine in this Commonwealth. The only necessary qualification then for the majority of the board of examiners is that they are miners who worked in an anthracite mine in 1889. What assurance is there that they possess the qualifications and the information which would enable them to properly determine the requirements necessary for a performance of the important duties imposed upon the mine inspectors. Their selection is to be made by the people at an election. The majority of the people, however, have no technical knowledge of mines and are engaged in other pursuits. The selection would be likely to be made upon other considerations than those of the technical capacity of the miners. They would in all probability be determined by association, by political relations and by all those influences which affect the ordinary voter. To state the proposition is enough in itself to show that this would not be likely to result in securing competent mine inspectors. No one would think of determining the selection of a physician or an engineer to run a railroad train, or the occupant of any other station requiring technical information by a popular vote at an election. In fact the selection of mine inspectors would seem properly to belong to the Executive Department of the government.

Under section five, the examining board is also very must restricted. It is there provided that this board at the examination of those seeking to become mine inspectors are not to make general inquiries covering the broad scope of the duties of the inspectors, but are to ask "only such questions as a good practical miner should be able to answer." A man may be a good practical miner and yet be entirely incapable of deciding the important questions which must be submitted to the mine inspectors. He may know little about machinery, ventilation, drainage, the method of lighting and matters which relate to the health and safety of those employed.

For these reasons, the bill is not approved.

SAML. W. PENNYPACKER.

No. 59.

AN ACT

Making an appropriation to the Passavant Hospital, at Pittsburg.

Section 1. Be it enacted, &c., That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is

hereby specifically appropriated to the Passavant Hospital, located at Pittsburg, for the two fiscal years beginning June first, one thousand nine hundred and three, for the purpose of assisting in erecting a laundry, an electric plant, and making necessary repairs to the hospital building.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 15, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 328, entitled "An act making an appropriation to the Passavant Hospital at Pittsburg."

Section five of the act incorporating The Passavant Hospital at Pittsburg, provides, "That as the persons composing the aforementioned society are members of the Evangelical Lutheran Church, and desire to remain unmolested in the free exercise of their religious faith and worship, it is hereby provided that no one shall be elected director or vice-director of the institution who is not a clergyman in good and regular standing in some one of the synods of said church in the United States." Section four provides that the directors "shall prescribe the kind and character of the patients and inmates, and the terms and conditions upon which they may be admitted, discharged and removed." This worthy institution would seem, therefore, to be denominational and sectarian, and within the meaning of the prohibition of the Constitution.

SAML. W. PENNYPACKER.

No. 60.

AN ACT

Making an appropriation to pay for the collection, revising, indexing and proof-reading of the pamphlet containing the game, the fish, and forestry laws of this Commonwealth.

Section 1. Be it enacted, &c., That the sum of three hundred dollars be and the same is hereby specifically appropriated to the use of the secretary of the Game Commission, in payment for services in collecting, revising, indexing and proof-reading the pamphlet containing the game, the fish and the forestry laws of this Commonwealth. This amount to be paid upon warrant of the Auditor General of the Commonwealth, upon proof that the material for said pamphlet has been properly prepared and placed in the hands of the State Printer.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 15, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 667, entitled "An act making an appropriation to pay for the collection, revising, and indexing and proof-reading of the pamphlet containing the game, the fish and forestry laws of this Commonwealth."

This bill appropriates the sum of $300 to the use of the secretary of the Game Commission, "in payment for services in collecting, revising, indexing and proof-reading the pamphlet containing the game, the fish and the forestry laws of this Commonwealth." The services rendered would seem to be properly and ordinarily within the duties of the secretary, and there seems to be no reason, therefore, for a special appropriation with respect to them.

SAML. W. PENNYPACKER.

No. 61.

AN ACT

Making an appropriation to John T. Stauffer, of Philadelphia.

Section 1. Be it enacted, &c., That the sum of eight hundred dollars be and the same is hereby specifically appropriated to John T. Stauffer, of Philadelphia, in payment of carriage-hire furnished the Commonwealth of Pennsylvania, as follows, namely:

The sum of eight hundred dollars, incurred by the Senate and House of Representatives in connection with the dedication of the Washington Monument at Philadelphia.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 15, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 724, entitled "An act making an appropriation to John T. Stauffer, of Philadelphia."

This bill appropriates the sum of $800 for the payment of John T. Stauffer for carriage-hire for the Senate and House of Representatives, in connection with the dedication of the Washington Monument at Philadelphia. There are several claims against the State which originated in connection with the same event. If they be valid claims the parties who rendered the service and furnished the materials ought to be paid. By act approved April 25, 1903, suit was permitted to be brought upon one of these claims. This would seem to be the proper course to pursue in the present case. It may be that a court would determine the claim to be invalid or the amount too large.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 62.

AN ACT

Making an appropriation to the Presbyterian Hospital, of Pittsburg and Allegheny.

Section 1. Be it enacted, &c., That the sum of fifteen thouand dollars, or so much thereof as may be necessary, be and the same

is hereby specifically appropriated to the Presbyterian Hospital of Pittsburg and Allegheny, for the two fiscal years beginning June first, one thousand nine hundred and three, for the following purposes, namely:

For the purpose of maintenance, the sum of five thousand dollars, or so much thereof as may be necessary.

For the purpose of assisting in the erection of a new building, the sum of ten thousand dollars.

Provided, That no part of the sum herein appropriated for new buildings shall be paid until the managers of said hospital shall have filed with the Auditor General a certificate, under oath, setting forth that the sum of ten thousand dollars has been subscribed, and paid into the treasury of the hospital, for the purpose of assisting in the construction of said buildings.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 15, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 774, entitled. "An act making an appropriation to the Presbyterian Hospital of Pittsburg and Allegheny."

Section eighteen of article three of the Constitution, provides that no appropriations * * * shall be made * * * "to any denominational or sectarian institution, corporation or association." Article two of the Constitution of the Presbyterian Hospital of Pittsburg and Allegheny describes the objects of the association to be the establishment of an institution affording medical and surgical aid to sick and disabled persons, and, further, to be "the ministrations of the gospel according to the doctrine and forms of the Presbyterian church." Section five of article three of the Constitution provided that the board of trustees "shall be composed of men, all of whom shall be Presbyterians." It is true that in April, of the present year, since the bill was offered in the House, this section has been amended, so that now only two-thirds of the board of trustees are required to be of one faith. This amendment does not, however, change the control of the institution or make such change possible, nor does it modify the purposes of the institution.

While no doubt doing meritorious and important work, it would seem to be a denominational and sectarian institution within the prohibition of the Constitution.

SAML. W. PENNYPACKER.

No. 63.

AN ACT

To provide for the appointment of a commission to investigate the causes of floods and overflows of rivers and water-courses, and to make recommendations for preventing the same, and making an appropriation therefor.

Section 1. Be it enacted, &c., That the Governor is hereby authorized and empowered to appoint five citizens of this Commonwealth,

who, together with the Commissioner of Forestry and the Attorney General, shall constitute a commission to be known as the Water Storage Commission. The commissioners shall receive no salary, but shall be paid, out of the moneys hereby appropriated, their actual and necessary expenses incurred in the performance of their duties. They may appoint a clerk and may fix the amount of his salary. They may select such engineers and surveyors as may be necessary for the proper performance of their work, and may fix their compensation.

Section 2. The Commission shall make such surveys and investigations as may be deemed necessary, for the purpose of inquiring into and determining the causes of the overflow of rivers and water-courses, in this Commonwealth, and what measures, if any, can be taken to prevent them. It shall report in writing to the General Assembly, on or before the twenty-fifth day of January, one thousand nine hundred and five, a full statement of all of its proceedings and such recommendations as it may desire to make, and shall file in the office of the Superintendent of Public Grounds and Buildings all maps, plans and surveys secured by it.

Section 3. For the purpose of enabling the commission to perform the duties herein imposed upon it, the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to be paid by the State Treasurer upon the warrant of the chairman of the commission, countersigned by the Auditor General.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 15, 1903.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 503, entitled "An act to provide for the appointment of a commission to investigate the causes of floods and overflows of rivers and water-courses, and to make recommendations for preventing the same, and making an appropriation therefor."

This bill provides for the appointment of a commission to be known as the Water Storage Commission, to consist of the Commissioner of Forestry and the Attorney General, together with five other persons to be selected by the Governor, whose duty it shall be to inquire into and determine "the causes of the overflow of rivers and water-courses in this Commonwealth, and what measures, if any, can be taken to prevent them." It is doubtful whether much practical benefit would result to the Commonwealth from such inquiry, or whether any measures could be taken that would overcome the difficulty. The commission is given authority to select engineers and surveyors and to fix their compensation, and to appoint a clerk and to fix the amount of his salary. This looks as though the purpose of the bill was that some practical work in the way of prevention should be done upon the ground, but if so there is no expression of this purpose in the bill. It would be better to have the salaries of the engineers, surveyors and clerks determined by the act which provides for their appointment.

SAML. W. PENNYPACKER.

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